

MEDICAL REVIEW OF TEXAS

[IRO #5259]

10817 W. Hwy. 71

Austin, Texas 78735

Phone: 512-288-3300

FAX: 512-288-3356

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-0924-01
Name of Patient:	
Name of URA/Payer:	Hartford Underwriters Insurance
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Luis Marioni, DC

May 15, 2006

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Louie Zapein
Luis Marioni, DC
Division of Workers' Compensation

CLINICAL HISTORY

Available documentation received and included for review consists of initial and subsequent reports and treatment records from Drs. Marioni (DC); Dr. Jaime Stolar; Consultation report Dr. Zolfoghary (MD); Designated Dr. Whitehead (MD); peer review denial opinions for per-
auth; Diagnostic Reports: MRI lumbar spine

Mr. ____, a 44-year-old male, injured his neck and lower back after a slip and fall incident; he slipped on some oil, apparently doing "the splits". He then fell again at a later point during the same day, landing his back. He was initially seen by a Concentra, and started on some physical therapy. He is not happy with this and so transferred to Dr. Marioni, a chiropractor who instituted conservative treatment. He appeared to be co-managed by Dr. Stolar, a medical doctor. Treatment included a combination of passive modalities, exercises and pain medication.

MRI scans were obtained on 12/19/05. In the lumbar spine this revealed a small central disc protrusion at L4-L5 with an additional component of an annular tear at the six o'clock position. At L5/S1 there was a paracentral disc protrusion displacing the left S1 originating nerve root. In the cervical spine, there was a left paracentral disc protrusion with moderate to severe nerve root stenosis on the left at C5-C6. Bilateral nerve root stenosis was seen in the C6-C7 level. No herniated disc was seen.

The patient had a neurological consult with Dr. Zolfoghary on 1/17/06. He was found to be completely neurologically intact without any indication of radiculopathy. The patient had some functional testing consisting of static lift, range of motion and grip test, performed on 1/11/06 by Dr. Marioni. The evaluation reported consistency of effort, reduced motion, decreased tolerance to functional activities and lifting capacity. Recommendation for a four-week exercise program at three

times per week was made. In reviewing the data, the static lift test assessment provided for an ability of around 80 pounds, extrapolating to an occasional lift capacity of 40 pounds, which places him in the medium physical demand level category. No other functional or activity deficits were actually identified.

The patient was then seen for designated doctor purposes by Dr. Whitehead (MD) on 2/23/06. Dr. Whitehead determined minimal range of motion deficits, no evidence of radiculopathy, normal strength. His impression was of an uncomplicated cervicothoracic and lumbosacral strain, status 12 weeks post injury. He determined that the MRI findings were incidental as there was no evidence of radiculopathy on exam. He felt that the patient's functioning appeared to be quite good with some mild limitation. He did not anticipate any material improvement with other care measures from that point forward. He rated the patient with a 10% whole person impairment, composed of DRE II categories of 5% each for the cervical and lumbar spine.

REQUESTED SERVICE(S)

Active physical therapy, three times per week for four weeks

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

The records demonstrate that the patient sustained injuries to the neck and cervical spine following slip and fall injuries at work. He was then seen with conservative care intervention for approximately 12 weeks. The lift test and range of motion studies in January 2006 indicated no obvious barriers for a full return to work, as the patient performed in the medium physical demand level category. No clear functional or activity limitations were identified indicating the requirement for a further four weeks of intensive 1-on-1 exercise therapy intervention.

This was a view shared by a designated doctor who evaluated the patient around the same time the request was made; he felt that the patient should be released from any further therapeutic intervention.

The patient is at a point beyond accepted treatment parameters outlined in treatment guidelines such as ACOEM, MDA and ODG. There are no clear extraneous or complicating factors identified to explain why this patient would need care beyond recognized clinical normative time frames.

As such, the request is deemed medically unnecessary.

References:

The Work Loss Data Institute's *Official Disability Guidelines, third edition 2005*

The Medical Disability Adviser, fourth edition

The American College of Occupational and Environmental Medicines *Occupational Medicine Practice Guidelines,*

Hansen DT: Topics in Clinical Chiropractic, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".

Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997; chapter 1, pp. 3-25.

Liebenson C. Commentary: Rehabilitation and chiropractic practice. JMPT 1996; 19(2):134140

Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;

The American Physical Therapy Association *Guidelines for Programs for Injured Worker's*, 1995

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

YOUR RIGHT TO APPEAL

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 16th day of May, 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell