

April 7, 2006

TX DEPT OF INS DIV OF WC
AUSTIN, TX 78744-1609

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-0955-01

CLIENT TRACKING NUMBER: M2-006-0955-01

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIOA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing between that 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.

Records Received:

Records from the State:

Notification of IRO Assignment, 3/23/06
Notice of receipt of request for Medical Dispute Resolution, 3/23/06
Medical Dispute Resolution Request/Response form
Table of Disputed Services
List of Providers
Pre-Authorization Determination, CorVel, 2/7/06
Pre-Authorization Determination, CorVel, 2/14/06
Letter from William Pulkingham, Sprain Law Firm, 2/24/06

(continued)

Records from Provider:

Prescription, 11/30/05

Office notes, Kendil Bienfang, LSA, OPA-C, 12/5/05, 12/7/05, 1/25/06

MRI report, cervical spine, 12/6/05

EMG/NCV report, Summit Diagnostics, 12/28/05

Office notes, Ian Reynolds, 1/4/06, 2/13/06

Prescriptions, Dr. Reynolds, 1/4/06, 1/25/06, 2/13/06

Records from Respondent:

Letters from Steven Tipton, Flahive, Ogden & Latson, 3/20/06, 3/30/06

Summary in response to IRO request, Jane Peizl, CorVel, 3/14/06

Medical Dispute Resolution Request/Response form

Preauthorization Medical Dispute Response Form

Initial Request for reconsideration, 2/7/06

Summary of Treatment/Case History:

The patient is a 45 year-old female whose date of injury is listed as _____. The patient reportedly sustained an injury secondary to a motor vehicle accident in which she was the driver of a truck and was rear-ended by another vehicle. The patient complains of left neck pain and left shoulder pain. MRI showed C4-5 mild uncovertebral joint spurring with moderate facet hypertrophic changes on the left, and a 3mm broad-based central disc protrusion/herniation at C5-6 with disc material extending above and slightly below the disc level. The anterior CSF space is completely effaced at this level with borderline stenosis; however, the spinal cord is not deformed. EMG/NCV reported evidence of acute C5-6 radiculopathy. On exam, the patient has decreased range of motion due to pain, some muscle spasm, and normal bilateral muscle strength. Treatment to date includes trigger point injections, medications, and physical therapy. The nature and extent of therapy is not described, and there is no indication that a trial of epidural steroid injection was attempted.

Questions for Review:

1. Is the anterior cervical discectomy and fusion at C4/5, C5/6, with bone graft and stabilization with plate and screw medically necessary?

Explanation of Findings:

This is a patient who reportedly was injured in a rear-end motor vehicle accident. Imaging studies showed changes in cervical spine pathology at C4-5 and C5-6. A previous physician advisor who reviewed the request for preauthorization noted that there were no radicular findings on physical exam, and that mild findings on EMG were suspect based on normal neurological exam. There is no documentation that a trial of oral or injected steroids was pursued. There is no evidence of spinal instability, and fusion surgery is not warranted at this time.

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Cervical fusion is not recommended except in unstable cervical spine injuries. Evidence indicates cervical discectomy alone produces favorable results compared to discectomy with fusion. Discectomy alone is a simpler operation and therefore preferable to fusion.

The efficacy of cervical fusion for patients with chronic cervical pain without instability has not been demonstrated. If surgery is a consideration, counseling and discussion regarding likely outcomes, risks and benefits, and especially expectations is essential. Patients with acute neck or upper back pain alone, without findings of serious conditions or significant nerve root compromise, rarely benefit from either surgical consultation or surgery.

Conclusion/Decision to Not Certify:

1. Is the anterior cervical discectomy and fusion at C4/5, C5/6 with bone graft and stabilization with plate and screw medically necessary?

No, the proposed surgical procedure is not medically necessary.

References Used in Support of Decision:

1. Bishop RC, Moore KA, Hadley MN. Anterior cervical interbody fusion using autogenic and allogenic bone graft substrate: A prospective comparative analysis. *J Neurosurg* 1996;85:206-10.
2. Gore DR, Sepic SB. Anterior cervical fusion for degenerative or protruded discs: A review of one hundred forty-six patients. *Spine* 1984;9:667-71.
3. Hanley EN, Harvell JC, Shapiro DE, Kraus DR. Use of allograft bone in cervical spine surgery. *Semin Spine Surg* 1989;1:262-70.
4. Martin GJ, Haid RW, MacMillan M, Rodts GE, Berkman R. Anterior cervical discectomy with freeze-dried fibula allograft. *Spine* 9:852-59, 1999.
5. Cho DY, Liao WR, Lee WY, Liu JT, Chiu CL, Sheu PC. Preliminary experience using a polyetheretherketone (PEEK) cage in the treatment of cervical disc disease. *Neurosurgery* 2002 Dec;51(6):1343-49.
6. Alexander JT, Branch CL Jr, Subach BR, Haid RW Jr. Applications of a resorbable interbody spacer in posterior lumbar interbody fusion. *J Neurosurg* 2002 Nov;97(4 Suppl):468-72.
7. Alexander JT, Branch CL Jr, Subach BR, Haid RW Jr. Applications of a resorbable interbody spacer via a posterior lumbar interbody fusion technique. *Orthopedics* 2002 Oct;25(10 Suppl):S1185-9.
8. Vavruch L, Hedlund R, Javid D, Leszniewski W, Shalabi A. A prospective randomized comparison between the Cloward procedure and a carbon fiber cage in the cervical spine: a clinical and radiologic study. *Spine* 2002 Aug 15;27(16):1694-701.
9. Burkus JK, Transfeldt EE, Kitchel SH, Watkins RG, Balderston RA. Clinical and radiographic outcomes of anterior lumbar interbody fusion using recombinant human bone morphogenetic protein-2. *Spine* 2002 Nov 1;27(21):2396-408.

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10. Bohler J, Gaudernak T. Anterior plate stabilization for fracture–dislocations of the lower cervical spine. J Trauma 20(3):203–5, 1980.
11. Wang JC, McDonough PW, Endow K, Kanim LE, Delamarter RB. The effect of cervical plating on single–level anterior cervical discectomy and fusion. J Spinal Disord 1999 Dec;12(6):467–71.
12. Kaiser MG, Haid RW Jr, Subach BR, Barnes B, Rodts GE Jr. Anterior cervical plating enhances arthrodesis after discectomy and fusion with cortical allograft. Neurosurgery 2002 Feb;50(2):229–36.
13. Vaccaro AR, Venger BH, Kelleher PM, Singh K, Carrino JA, Albert T, Hilibrand A. Use of a bioabsorbable anterior cervical plate in the treatment of cervical degenerative and traumatic disk disruption. Orthopedics 2002 Oct;25(10 Suppl):s1191–9.
14. Official Disability Guidelines Treatment in Workers' Comp, Work Loss Data Institute

The physician who provided this review is a fellow of the American Board of Orthopaedic Surgery. This reviewer is a fellow of the North American Spine Society and the American Academy of Orthopaedic Surgeons. This reviewer has been in active practice since 1990.

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 / Appeals Clerk

P. O. Box 17787

Austin, TX 78744

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute. MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the DWC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by

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state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRloA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRloA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRloA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRloA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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Case Analyst: Valerie O ext 554

cc: Requestor
Respondent