

MATUTECH, INC.

**PO Box 310069
New Braunfels, TX 78131
Phone: 800-929-9078
Fax: 800-570-9544**

May 26, 2006

Rebecca Farless
Texas Department of Insurance
Division of Worker's Compensation
Fax: (512) 804-4871

Re: Medical Dispute Resolution
MDR Tracking #: M2-06-1090-01
DWC#: _____
Injured Employee: _____
DOI: _____
IRO#: IRO5317

Dear Ms. Farless:

Matutech, Inc. has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were obtained from Texas Health, Work Accident Clinic, and Texas Department of Insurance. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by the physician who is licensed in Pain Management and is currently on the DWC Approved Doctors List.

Sincerely,



John Kasperbauer
Matutech, Inc.

REVIEWER'S REPORT

Information provided for review:

Request for Independent Review

Information provided by Texas Health:

Clinic notes (07/12/05 - 02/27/06)
Therapy note (01/04/06)
FCE (08/31/05 - 01/04/06)
Radiodiagnostics (10/01/04 - 02/02/05)

Information provided by Work Accident Clinic:

Clinic notes (12/28/04 - 03/06/06)
Therapy notes (03/31/05 – 09/08/05)
FCE (08/31/05 - 10/06/05)
Radiodiagnostics (10/01/04 – 02/02/05)
RME (08/24/05)
DDE (01/12/06)
Electrodiagnostics (01/31/06)

Clinical History:

This is a 56-year-old male who sustained a low back injury when he slipped and fell on some ice while taking out some boxes. He also indicated hitting his head on the cement.

Magnetic resonance imaging (MRI) lumbar spine dated October 2004, revealed: (a) a central disc protrusion/herniation at L3-L4 with moderate degenerative disc narrowing, desiccation, and stenosis of the spinal canal; (b) an extruded central and right paracentral 6-7 mm disc herniation at L4-L5 with degenerative disc narrowing and desiccation causing bilateral foraminal stenosis; and (c) a degenerative retrolisthesis of L5 on S1 with moderately advanced degenerative disc narrowing, desiccation, and circumferential disc bulge as well as facet joint degeneration and ligamenta flava thickening. Following the injury of December, the patient was seen at the Redbird Family Clinic. The diagnoses were lumbar radiculopathy and herniated nucleus pulposus (HNP). Medications were prescribed. In 2005, Kevin Gill, M.D., an orthopedist, noted a previous back injury of July 2004 following which the patient had undergone two epidural steroid injections (ESIs) with minimal relief. There was a history of wrist surgery. MRI of the lumbar spine revealed: (a) a focal right paracentral disc herniation at L4-L5 with facet arthropathy; (b) a broad-based posterior disc protrusion/herniation at L3-L4 along with facet arthropathy, advanced spinal stenosis, and bilateral foraminal stenosis; (c) a broad-based disc protrusion/herniation at L5-S1 with facet arthropathy resulting in bilateral foraminal stenosis; (d) a mild posterior disc bulge at L2-L3; (e) mild degenerative endplate marrow signal changes at L3-L4, L4-L5, and L5-S1; and (f) mild levoscoliosis. It was noted that the patient had undergone a decompression at L3-L4 and L4-L5, with a microdiscectomy for an extruded disc at L3-L4 on February 2, 2005, by Dr. Gill. About

a month post surgery, Dr. Gill noted new complaints of neck pain and headaches. He found the patient clinically stable from the lumbar stand-point. The cervical x-rays revealed only minor osteoarthritic changes at the C2-C3 facet joints. Zanaflex and Vicodin were prescribed. Dr. Gill opined that there was no evidence of pre-existing injury and did not believe that the patient's injuries were the result of an ordinary disease of life. From March through September, the patient attended 67 sessions of physical therapy (PT) at the Work and Accident Clinic.

On behavioral medicine consultation, the patient was diagnosed with adjustment disorder with mixed anxiety and depressed mood, rule out major depressive disorder. Individual counseling and biofeedback were recommended. Miguel Banta, Jr., M.D., a pain management physician, noted a very satisfactory and successful surgical result. He recommended continuation of treatment with Dr. Bedford. Hooman Sedighi, M.D., performed a required medical evaluation (RME) and rendered the following opinions: (1) Following the second fall on December 23, 2004, there did not appear to be any significant change in the patient's overall presentation and there was no evidence of a new injury to the underlying spinal structures on the MRI. (2) Surgical intervention was appropriate, but related to the patient's pre-existing condition of July 2004. (3) The patient qualified for the return to work at medium level. (4) The patient did not require any work conditioning or work hardening program as he was already at his maximum medically recommended functional level. (5) There was no indication for continuation of chiropractic care. In a functional capacity evaluation (FCE), the patient qualified for a light physical demand level (PDL) whereas his job requirement was that of a medium PDL. A work hardening program (WHP) was recommended. In September, the treating clinician stated that the patient had completed two individual psychotherapy sessions. Another FCE in October placed the patient in the light-to-medium PDL. Continuation of WHP was recommended.

2006: John Botefuhr, D.C., noted positive results with WHP. A PT evaluation was performed for chronic pain program. The therapist found the patient an appropriate candidate for chronic pain management program (CPMP) due to elevated pain levels, decreased functional ADLs, work and recreational performance. Bruce Whitehead, M.D., performed a peer review. According to him, a review by Dr. Mike O'Kelley had indicated that 90 visits and then WHP was not within the EBM/peer criterion. Also in another peer review, Dorothy Leong, M.D., felt the patient could return to his previous job description. Dr. Whitehead assessed maximum medical improvement (MMI) as of January 12, 2006, and assigned whole person impairment (WPI) rating of 5%. Electromyography/nerve conduction velocity (EMG/NCV) studies of the lower extremities revealed the possible chronic compressive nerve root at the L5 level possibly secondary to radiculopathy. Bradley Eames, D.O., evaluated the patient for low back pain. He noted that psychological assessment done at the Texas Health showed the patient to have history of anxiety and mild depression and not meeting the performance goals at the end of WHP. Dr. Eames diagnosed low back pain with radiculitis (essentially resolved after laminectomy surgery) and anxiety and depression per psychological testing. He felt the patient a reasonable candidate for a CPMP. On February 20, 2006, CPMP was denied for the following reason: The patient had undergone various behavioral, interventional, surgery, and four weeks of WHP. There was no recent history and physical documenting of prognosis for permit of CPMP and there was no objectively scored psychological testing documenting the prognosis for

permit. Furthermore, there was not opiate extinction protocol and the patient continued to be on narcotics and muscle relaxants. Dr. Botefuhr noted the patient had completed four sessions of individual psychotherapy and four sessions of biofeedback therapy in October, 2005. He believed that due to significant functional deficits and the chronic pain syndrome, the patient should be approved for tertiary level of care. On March 3, 2006, re-consideration request for CPMP was denied for the following reason: The patient was already at his job PDL of medium, but went through a WHP and was now reportedly only at light PDL. This appeared to be a psychological/behavioral pain tolerance issue. He also received four sessions of biofeedback and psychotherapy with documented improvement in all psychosocial self reports and also an anxiety and depression. Thus, he was progressing at a lower level of care. There had been no attempt at seeking work within this PDL or contacting the DARS. The appeared to be a case where additional psychological/behavioral and vocational rehab was indicated and not a pain program. On March 6, 2006, Dr. Whitehead stood by his MMI date and WPI rating.

Disputed Services:

20 sessions of chronic pain management program (CPMP).

Explanation of Findings:

Patient appears to have engaged in single discipline services with alternating improvement and subsequent remission. None of the services appear to have sustained benefit on criteria measured by the treating doctor. Vocational rehabilitation is under represented in terms of number and types of treatments offered, compared with physical modalities. This decision for referral to CPMP does not occur early in the injury process, and the referral is made after work hardening multidisciplinary treatment, so limits the applicability of "early effective multidisciplinary intervention" literature to this case.

Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn denial:

Conclusion/Decision to Uphold denial of CPMP Program. Agree with Denial

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

NATIONAL CLEARING HOUSE (MEETS ONLY 1 OF ALL POSSIBLE) ENTRY CRITERIA

NASS PHASE III CLINICAL (MEETS ONLY 2 OF ALL POSSIBLE) CRITERIA

ODG GUIDELINES meets criteria for denial based on lack of medical necessity

ACOEM meets criteria for denial based on lack of medical necessity

The physician providing this review is a Doctor of Medicine (M.D.). The reviewer is national board certified in Physical Medicine and Rehabilitation as well as pain medicine. The reviewer has been in active practice for eight years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile a copy of this finding to the provider of records, payer and/or URA, patient and the Texas Department of Insurance.

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

The written opinions provided by Matutech 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 Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech 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. 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.

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.