

May 11, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-1150-01

CLIENT TRACKING NUMBER: M2-06-1150-01/5278

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 Received from the State:

- Notification of IRO Assignment, 4/21/06 - 2 pages
- Medical Dispute Resolution Request/Response, 4/21/06 - 3 pages
- Letter from Intracorp to Dr. Richard Guyer, 1/25/06 - 3 pages
- Letter from Intracorp to Dr. Richard Guyer, 2/22/06 - 2 pages
- Table of Disputed Services, undated - 1 page

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Records Received from the Requestor:

- TBI Injured Worker Information, 8/4/05 - 1 page
- Letter from TBI to Patient, 4/4/06 - 1 page
- TEXSCAN MRI of the Lumbar Spine With and Without Contrast, 9/1/05 - 2 pages
- TBI Rehabilitation Services, 11/29/05 - 1 page
- TBI Consult, 11/21/05 - 3 pages
- TBI Consult, 12/5/05 - 2 pages
- Facet Injections Operative Report, 12/14/05 - 1 page
- Radiography Note, Arthrograms, 12/14/05 - 1 page
- TBI Followup, 1/9/06 - 2 pages
- TBI Peer-to-Peer, 1/9/06 - 1 page
- TBI Peer-to-Peer, 1/25/06 - 1 page
- TBI Followup, 2/3/06-3/28/06 - 7 pages
- Texas Workers' Compensation Work Status Report, 11/21/05-12/5/05 - 2 pages
- TBI Recommendation for Discogram, 1/9/06 - 2 pages
- Texas Workers' Compensation Work Status Report, 1/9/06-3/20/06 - 5 pages
- Duplicate Records, various dates - 32 pages

Records Received from the Respondent:

- DWC 60 Addendum Position Statement Response to MDR, undated - 1 page
- Workers Compensation Verification, 8/3/05 - 2 pages
- TBI Patient Profile, 1/10/06 - 2 pages
- Notes from Metrocrest Orthopaedics and Sports Medicine, 9/14/05-9/30/05 - 4 pages
- Metrocrest Surgery Center Operative Report, 10/14/05 - 2 pages
- Notes from Metrocrest Orthopaedics and Sports Medicine, 10/14/05-10/24/06 - 2 pages
- Functional Abilities Evaluation, 12/1/05 - 13 pages
- Letter from Juan Capello, MD to ACE USA - Dallas, 12/1/05 - 10 pages
- Facet Injections Operative Report, 12/14/05 - 1 page
- Radiography Note, Arthrograms, 12/14/05 - 1 page
- TBI Peer-to-Peer, 2/22/06 - 1 page

Summary of Treatment/Case History:

The patient is a 45-year-old male whose date of injury is listed as _____. The patient was lifting a heavy box of paper when he had a sudden onset of low back pain. He has a history of previous lumbar surgery with laminectomy/discectomy on the left at L5-S1. MRI study showed post-operative changes at L5-S1 and multilevel degenerative disc disease with disc desiccation at L3-4, L4-5 and L5-S1. There are left lateral disc protrusions at L3-4 and L4-5 with no evidence of recurrent/residual disc herniation at L5-S1. The patient has had epidural steroid injections (ESIs), physical therapy (PT), and facet injections without significant improvement. Lumbar discogram was recommended and denied twice per physician advisor reviews.

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Questions for Review:

Item(s) in dispute: Pre-Authorization denied for Lumbar Discogram CT scan L2-S1. Medical necessity

Explanation of Findings:

Item(s) in dispute: Pre-Authorization denied for Lumbar Discogram CT scan L2-S1. Medical necessity

No, the discogram is not medically necessary.

The patient has findings on MRI of multilevel degenerative disc disease. EMG was negative. On physical examination, the patient is noted to be 6'1" and 240 pounds. He is able to walk without assistance with a normal gait. The patient is tender to palpation more so near the L4-5 and L5-S1 levels on the left. Range of motion is limited secondary to pain. Manual motor testing was 5/5 throughout the bilateral lower extremities. His seated straight leg raise at 45 degrees produces low back pain bilaterally. Dr. Capello, the independent medical examination (IME) doctor, opined that the patient is not a surgical candidate because on MRI, and more importantly on the physical examination, there is no evidence of a focal neurological deficit, motor or sensory losses, or any objective signs of radiculopathy. Dr. Capello also noted that there are strong signs of symptom magnification in this patient. The patient has multilevel degenerative changes on MRI imaging, and discogram is a diagnostic test that establishes reproduction of pain at the disc. A discogram of the entire lumbar spine is a screening test and not a diagnostic tool. Based on the clinical information provided, noting the multilevel degenerative changes on MRI, the findings on physical examination, and noting the indication of symptom magnification, there is no medical necessity for lumbar discogram.

"Discography involves the injection of a water-soluble imaging material directly into the nucleus pulposus of the disc. Information is then recorded about the amount of dye accepted, the pressure necessary to inject the material, the configuration of the opaque material, and the reproduction of the patient's pain. There are two diagnostic objectives:

1. to evaluate radiographically the extent of disc damage on discogram (sometimes with the addition of CT) and
2. to characterize the pain response (if any) on disc injection to see if it compares with the typical pain of the patient.

A symptomatic degenerative disc is considered one that disperses injected contrast in an abnormal pattern, extending to the outer margins of the annulus and possibly into epidural space as well. For many investigators, a painful reaction provoked in the patient that reproduces the patient's usual pain is required to classify the disc as abnormal.

Diskography may be used where fusion is a realistic consideration, and it may provide supplemental information prior to surgery. This area is rapidly evolving, and clinicians should consult the latest available studies. Despite the lack of strong medical evidence supporting it, diskography is fairly

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common, and when considered, it should be reserved only for patients who meet the following criteria:

- a. Back pain of at least three months duration.
- b. Failure of conservative treatment.
- c. Satisfactory results from detailed psychosocial assessment. (Diskography in subjects with emotional and chronic pain problems has been linked to reports of significant back pain for prolonged periods after injection, and therefore should be avoided.)
- d. Is a candidate for surgery.
- e. Has been briefed on potential risks and benefits from diskography and surgery.”

Conclusion/Decision to Not Certify:

The discogram is not medically necessary.

References Used in Support of Decision:

1. Carragee, E.J., et al., Provocative discography in patients after limited lumbar discectomy: A controlled, randomized study of pain response in symptomatic and asymptomatic subjects. *Spine*, 2000. 25(23): p. 3065-71.
2. Carragee, E.J., S.J. Paragioudakis, and S. Khurana, 2000 Volvo Award winner in clinical studies: Lumbar high-intensity zone and discography in subjects without low back problems. *Spine*, 2000. 25(23): p. 2987-92.
3. Sandhu, H.S., et al., Association between findings of provocative discography and vertebral endplate signal changes as seen on MRI. *J Spinal Disord*, 2000. 13(5): p. 438-43.
4. Carragee, E.J., Is lumbar discography a determinate of discogenic low back pain: provocative discography reconsidered. *Curr Rev Pain*, 2000. 4(4): p. 301-8.
5. Carragee, E.J., et al., Can discography cause long-term back symptoms in previously asymptomatic subjects? *Spine*, 2000. 25(14): p. 1803-8.
6. Smith, S.E., et al., Outcome of unoperated discogram-positive low back pain. *Spine*, 1995. 20(18): p. 1997-2000; discussion 2000-1.
7. Moneta, G.B., et al., Reported pain during lumbar discography as a function of anular ruptures and disc degeneration. A re-analysis of 833 discograms. *Spine*, 1994. 19(17): p. 1968-74.
8. The Official Disability Guidelines, 11th edition, The Work Loss Data Institute.
9. American College of Occupational and Environmental Medicine Guidelines, Chapter 12, Low Back Complaints

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.

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

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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.

MRloA 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 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: Jamie C ext 583

Cc: requestor and respondent