

MEDICAL REVIEW OF TEXAS

[IRO #5259]

10817 W. Hwy. 71

Phone: 512-288-3300

Austin, Texas 78735

FAX: 512-288-3356

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-1239-01
Name of Patient: _____	
Name of URA/Payer:	Texas Mutual Insurance Company
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Luis Marioni, DC

June 23, 2006

An independent review of the above-referenced case has been completed by a physician board certified in neurosurgery. 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: _____
Khosrow Zolfoghary, MD
Luis Marioni, DC
Division of Workers' Compensation

DOCUMENTS REVIEWED

1. Office notes of Dr. K. Zolfoghary dated from 1/3/06 to 4/6/06.
2. Open MRI dated 2/2/05.
3. Anesthesiology notes from Dr. Lynn Neill describing a patient's ESI on 2/20/06.
4. Dr. Jaime Stolar, treating physician, from 12/13/05 through 1/06/06.
5. Dr. Michael Boone, EMG which was soundly within normal limits.
6. Initial physician evaluation which felt that the patient could be returned to normal activities as there was no evidence of pathologies.
7. Dr. Howard Bernstein, MMI, dated 2/17/06.

CLINICAL HISTORY

This is a 42 year old gentleman who on _____ was picking up a heavy object and twisted his back and developed severe low back pain which then reportedly extended into his lower extremities. He has maintained a normal neurologic exam throughout his multiple evaluations, but has consistently complained of low back pain despite conservative management which has included physical therapy, non steroidal anti-inflammatory agents and an epidural injection. His diagnostic studies included an EMG which was within normal limits, an MRI scan which found him to have L3 disc desiccation with annular bulging and a fissure with a small posterior central disc protrusion and borderline stenosis. At L4 he was also noted to have L4 disc desiccation, bulging bore as well as borderline central canal stenosis. Because of this, he has been referred for a neurosurgical evaluation and a L3 and L4 laminectomy to attend to these "traumatic disc herniations" has been recommended.

REQUESTED SERVICE(S)

L3 and L4 laminectomy.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

As has been previously noted by the previous reviewer, there are a number of difficulties with this; first and foremost this patient's neurologic exam is within normal limits. It is untenable to say that this patient has a radiculopathy based on the explanation that he has pain going into his lower extremities without further description. The only abnormality that is noted is a rather inconsistent straight leg raising sign and far from strengthening the case it actually weakens the case as this has been found to be so inconsistent. Examining physicians on multiple occasions have described this patient as having a number of positive Waddell signs. His pain corresponds to no clear pattern and he seems to have symptom magnification, and it has been openly stated that there is a concern of "malingering". Even a designated Independent Medical Exam found that the patient did not have any evidence of a radiculopathy and there was a certain amount of symptom magnification, again demonstrated by the discrepancies in the straight leg raising sign. Despite this, Dr. K. Zolfoghary has recommended an L3 and L4 laminectomy after this patient has failed conservative management which he includes his ESI's and physical therapy. How this physician derives at particularly these levels to be symptomatic is unsure; however, without any corresponding physical exam findings, radiographic findings or electrodiagnostic tests, there is no support for a lumbar laminectomy and precious little hope that surgery is going to alleviate this gentleman's pain. This information is also based on the ***Occupational Medicine Practice Guidelines, Second Edition*** as well as the ***North American Spine Society's*** recommendation for a lumbar laminectomy as well as the recommendations seen in various neurosurgical textbooks including the ***Youmans***.

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 26th day of June, 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell