

June 2, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-1309-01

CLIENT TRACKING NUMBER: M2-06-1309-01

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:

Notification of IRO assignment dated 5/16/06 2 pages

Medical dispute resolution request undated 3 pages

Request for certification dated 3/7/06 2 pages

Records from Requestor:

Request for certification dated 3/7/06 2 pages

Preauthorization request dated 3/3/06 2 pages

Evaluation note dated 3/7/06 3 pages

Evaluation note dated 2/1/06 4 pages

Letter of medical necessity dated 4/16/06 2 pages

Evaluation note dated 3/3/06 3 pages

Letter of medical necessity dated 3/13/06 2 pages

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Records from Respondent:

Notice of disputed issue and refusal to pay benefits dated 7/25/05 1 page

Request for benefit review conference dated 7/25/05 1 page

Preauthorization request dated 3/20/06 1 page

Impairment rating dated 5/3/05 3 pages

Adverse determination letter dated 3/20/06 2 pages

Report of medical evaluation undated 1 page

Report of medical evaluation dated 2/25/05 1 page

Report of medical evaluation dated 2/16/05 1 page

Report of medical evaluation dated 2/22/06 1 page

Report of medical evaluation dated 5/3/05 1 page

Report of medical evaluation dated 7/5/05 1 page

Impairment rating dated 1/16/06 3 pages

Work Status report dated 9/20/04 1 page

Work status report dated 9/27/04 1 page

Work status report dated 10/2/04 1 page

Work status report dated 10/11/04 1 page

Work status report dated 12/13/04 1 page

Work status report dated 4/11/05 1 page

Work status report dated 4/19/05 1 page

Work status report dated 5/31/05 1 page

Work status report dated 8/17/05 1 page

Work status report dated 7/18/05 1 page

Work status report dated 7/18/05 1 page

Work status report dated 8/11/05 1 page

Work status report dated 3/3/06 1 page

Designated doctor evaluation dated 2/22/06 9 pages

ROM impairment detail dated 2/22/06 4 pages

Request for benefit review conference dated 10/25/05 1 page

Report of medical evaluation dated 10/11/05 1 page

History of injury dated 7/5/05 4 pages

History of injury dated 10/11/05 5 pages

Visit note dated 3/3/05 - 8/17/05 23 pages

Initial evaluation dated 4/18/05 4 pages

Initial evaluation dated 7/11/05 3 pages

Initial evaluation dated 3/3/05 3 pages

Initial evaluation dated 7/18/05 4 pages

Initial evaluation dated 8/24/05 3 pages

Physical performance evaluation dated 4/19/05 2 pages

Subsequent evaluation dated 4/11/05 3 pages

Subsequent evaluation dated 7/6/05 3 pages

Report of medical evaluation dated 2/16/05 2 pages

History and evaluation dated 6/8/05 6 pages

Review of medical history and physical exam dated 2/16/05 3 pages

Encounter note dated 9/27/04 1 page

Progress report dated 10/05/04 1 page

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PT note undated 1 page

PT note dated 9/20/04 1 page

PT note dated 9/27/04 1 page

PT note dated 10/2/04 1 page

Radiology report dated 8/5/05 1 page

Radiology report dated 8/31/05 1 page

EMG report dated 4/14/05 2 pages

ROM evaluation dated 11/3/05 8 pages

Summary of Treatment/Case History:

The patient is a 39-year-old electronics installer for a major electronics retailer who, on ____, was unloading and installing a dishwasher when he fell. He further stated that he was pushing the dishwasher back to the elevator tailgate when he stepped with his left foot, missed the tailgate, and fell backwards. He tried to grab the side rail of the truck, but was unsuccessful and fell approximately 3 feet, landing onto the cement with the flat of his back. He treated initially with the "company doctor," receiving medications and some physical therapy, and soon afterwards was returned to work.

When he felt he couldn't perform his work duties, he presented himself to a doctor of chiropractic who continued his physical therapy and rehabilitation, and included chiropractic care. On referral from his treating doctor, he was given an impairment rating on 5/3/05, was deemed at MMI with a 10% whole-person impairment, and then his pain flared while performing his home exercises.

Questions for Review:

Are the proposed 12 sessions of physical therapy, to include therapeutic exercises (#97110), manual therapy techniques (#97140, both joint mobilization and myofascial release), unattended electrical stimulation (#G0283), and ultrasound (#97035), medically necessary to treat this patient's injury?

Explanation of Findings:

Are the proposed 12 sessions of physical therapy, to include therapeutic exercises (#97110), manual therapy techniques (#97140, both joint mobilization and myofascial release), unattended electrical stimulation (#G0283), and ultrasound (#97035), medically necessary to treat this patient's injury?

Yes. In this case, there was adequate documentation that the claimant sustained a flare up to his original injury relative to his lumbar spine. Since he responded well initially to this regimen of physical therapy and rehabilitation, it is reasonable to assume the same will occur following an aggravation, supporting the proposed 12 sessions of therapy as medically necessary.

Moreover, the records specifically documented that the flare up occurred as a result of the patient performing his home exercises. Clearly, this would support another regimen of supervised, one-on-one therapeutic exercises to ensure proper body position, correct movements, and overall improved execution so that the patient can safely be returned to a home program.

In addition, the carrier used - as its basis for non-authorization - recommendations from their carrier reviewer who opined that these passive modality services were not medically necessary due to the chronicity of the condition. However, the documentation established that the patient had experienced an acute flare-up, necessitating these services anew. Furthermore, their reviewer cited a "recent (continued)

Cochrane Review” (Gross–Cochrane, 2002) that concluded “that there was strong evidence of benefit favoring ‘multimodal care,’ and the common elements in this care strategy were mobilization and/or manipulation plus exercise” [emphasis added], which is a portion of what is being recommended in this case. The reviewer continued, and wrote, “ACOEM Guidelines, Chapter 12, pages 298 and 299, do not recommend prolonged courses of manipulative therapy (greater than 4 weeks) for the management of back pain.” But, the treating doctor only requested 4 weeks of this type of care for this flare-up, making it congruent with ACOEM, not contrary to it.

Also, The *Texas Guidelines* also state that repeated use of acute care measures alone generally fosters chronicity, physician dependence and over-utilization, and the repeated use of passive treatment/care tends to promote physician dependence and chronicity. [emphasis added] In this instance, however, the treating doctor is not requesting acute care measures alone. He is requesting that these services be provided in conjunction with active therapy.

Finally, and probably most telling, is that the designated doctor in this case – who not only carries presumptive weight, but who actually saw and examined the injured worker, as opposed to the carrier paper reviewer who did not – did not even find the patient at MMI following his examination, and felt that additional care (and diagnostics) were not only necessary, but required.

References Used in Support of Decision:

Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters, copyright 1994 by the Texas Chiropractic Association, Aspen Publishers, Inc.

ACOEM Guidelines, Chapter 12, pages 298 and 299

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

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

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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 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 MRIOA 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 MRIOA 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 MRIOA 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 MRIOA 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: Raquel G ext 518

cc: requestor and respondent