May 31, 2006

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

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M2-06-1321-01
CLIENT TRACKING NUMBER: M2-06-1321-01

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:

FROM THE STATE OF TEXAS:
Notification of IRO assignment 5/11/06 – 1 page
Texas Department of Insurance Division of Workers' Compensation form 5/11/06 – 1 page
Medical dispute resolution request/response form – 1 page
Provider form – 1 page
Table of disputed services – 1 page
Non authorization after reconsideration notice 3/28/06 – 2 pages
Non authorization notice 3/8/06 – 2 pages

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FROM THE RESPONDENT/Zurich American Insurance Co:

Request for payment of independent review organization fee - 1 page
Request for production of documents - 1 page
Letter from Flahive, Ogden & Latson 5/19/06 - 1 page
Letter from Flahive, Ogden & Latson 5/10/06 - 2 pages
Medical dispute resolution request/response - 1 page
Provider form - 1 page
Table of disputed services - 1 page
Non authorization after reconsideration notice 3/28/06 - 2 pages
Non authorization notice 3/8/06 - 2 pages
Transaction report from Flahive, Ogden & Latson 5/10/06 - 1 page
Non authorization notice 12/9/05 - 2 pages
Authorization notice 4/1/05 - 1 page
Non authorization after reconsideration notice 5/24/05 - 1 page
Non authorization after reconsideration notice 3/28/06 - 2 pages
Non authorization notice 5/11/05 - 2 pages
Authorization after reconsideration notice 1/4/06 - 2 pages
Non authorization notice 3/8/06 - 2 pages
Report of medical evaluation 6/3/05 - 1 page
Letter from Dr. Golovko, MD 6/3/05 - 5 pages
Nerve conduction study/electromyography 6/7/05 - 2 pages
Letter from Dr. LeGrand, Jr., MD 2/27/06 - 1 page
Letter from Dr. LeGrand, Jr., MD 12/15/05 - 1 page
Operative report 1/10/06 - 1 page
Lumbar spine myelogram report 1/10/06 - 1 page
Lumbar spine x-ray report 1/10/06 - 1 page
Letter from Dr. LeGrand, Jr., MD 11/10/05 - 2 pages
MRI lumbar spine consultation report 5/3/04 - 1 page
Office notes 4/19/04 - 2 pages
Letter from Dr. Buck, MD 11/2/05 - 4 pages

Summary of Treatment/Case History:
The patient is a 36 year old female with a date of injury on ___. She felt a pop in her back when picking up an instrument tray from a lower shelf. She is a smoker, 5'4" and 185 lbs. She complains of low back pain, specifically over the left SI joint, with radiation down her left lower extremity in the posterior aspect of her thigh and also the medial thigh running down to the left great toe. Palpation over her left SI joint reproduces the posterior pain. Neurologic examination is otherwise normal. She has had 2 epidural steroid injections (ESI) and physical therapy. MRI shows a small disc protrusion at L5-S1. EMG shows no radiculopathy. Myelogram shows no abnormality. Maximum medical improvement (MMI) was set at 6/3/05.

Questions for Review:

1. Items in dispute: preauth denied for lumbar discogram/CT.

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Explanation of Findings:
This patient is a 36 year old female who has had low back pain with radiation to her left leg since 2004. She has tried conservative management (ESI, PT) without relief. An independent examiner has concluded that she has pain from her sacroiliac joint, but her surgeon is requesting a discogram to decide if she needs spine surgery.

This patient has chronic pain according to ACOEM guidelines. There is some evidence that the pain is related to her left SI joint (ie. it is reproducible by palpation over that joint). There is no objective evidence of radiculopathy, herniated disc or mechanical instability of the spine. The surgeon is proposing a discogram to determine if the patient is a surgical candidate. There is poor correlation between results of lumbar discogram and improvement with spinal surgery, especially in worker's compensation patients (1,2). For single level disease, with a positive discogram 35% of all patients had good results and 47% poor results (2), but the results were significantly worse in the worker's compensation subset.

In addition, there appears to be no correlation between persistence of pain and positive discography (1). AANS guidelines recommend that discography not be used as a stand alone test for surgical indications, which is what is being proposed in this patient with a normal myelogram/CT (3). Discogram is not medically necessary for this patient.

Conclusion/Decision to Not Certify:

1. Items in dispute: preauth denied for lumbar discogram/CT.

The lumbar discogram/CT is not medically necessary for this patient based on the above rationale.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
ACOEM Guidelines: CHAPTER 6: Pain, Suffering, and the Restoration of Function C. Physician Guidelines for Dealing with Potentially Chronic or Chronic Injuries In general, intervention for treating pain should be time-limited and goal-oriented. Persons returning to work in six months or less after injury tend to have the best outcomes. Persons who have been out of work for a year or more tend to have poor return-to-work outcomes.

CHAPTER 12:Low Back Complaints - E. Spinal Fusion There is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problem, in the absence of spinal fracture, dislocation, or spondylolisthesis if there is instability and motion in the segment operated on. It is important to note that although it is being undertaken, lumbar fusion in patients with other types of low back pain very seldom cures the patient.

References Used in Support of Decision:
Smith SE, Darden BV, Rhyne AL, Wood KE Outcome of unoperated discogram-positive low back pain Spine. 1995 Sep 15;20(18):1997-2000;

Knox BD, Chapman TM J Spinal Disord. Anterior lumbar interbody fusion for discogram concordant pain. 1993 Jun;6(3):242-4

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Resnick DK, Choudhri TF, Dailey AT, Groff MW, Khoo L, Matz PG, Mummaneni P, Watters WC 3rd, Wang J, Walters BC, Hadley MN; American Association of Neurological Surgeons/Congress of Neurological Surgeons. Guidelines for the performance of fusion procedures for degenerative disease of the lumbar spine. Part 6: magnetic resonance imaging and discography for patient selection for lumbar fusion. J Neurosurg Spine. 2005 Jun;2(6):662-9

The physician providing this review is board certified in Neurosurgery. This reviewer is a diplomate of the National Board of Medical Examiners. This reviewer is a member of the American Association of Neurological Surgeons, the Texas Medical Association and the Society for Neuro Oncology. This reviewer has been in active practice since 1999.

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 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.

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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: Cherstin B ext 597

cc: Requestor, Respondent