

June 8, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-1371-01

CLIENT TRACKING NUMBER: M2-06-1371-01

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:

Records from the State:

Notification of IRO Assignment, 5/25/06

Notice of Receipt of Request for Medical Dispute Resolution

Medical Dispute Resolution Request/Response form

Table of disputed services

Denial letter and information on appeal process, First Health Medical Department, 4/5/06

Notification of Appeal Outcome letter, 4/14/06

Letter from Ryan Potter, MD, 4/11/06

Telephone note, Ryan Potter, MD, 4/6/06

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Records from Insurance Company:

Letter to Medical Review Institute of America, 5/31/06
Employer's First Report of Injury of Illness, 9/9/99
Required Medical Evaluation, Theodore Parsons III, MD, 9/17/05
Notice of Appeal Outcome Letter, 3/14/06
Denial letter and information on appeal process, First Health Medical Department, 4/5/06
Telephone note, Ryan Potter, MD, 4/6/06
Operative reports, 1/12/06, 4/25/05, 6/7/04, 5/31/01
Letters/Notes from Jose Recio, PA and John Masciale, MD, 12/22/05, 4/28/05, 3/29/05, 2/1/05, 1/4/05, 11/9/04, 8/3/04
Information on appeal process, First Health, 2/13/06 (No letter)
Noncertification letter and information on appeal process, First Health, 11/22/05
Initial Determination letter, First Health, 10/17/05
Fax Coversheet, Comprehensive Pain Management, 1/24/06
Noncertification letter and information on appeal process, First Health, 12/8/05
E-mail from Donna West-Jenkins, 1/27/06
History and physical, Ryan Potter, MD, 1/13/06, 11/11/05, 10/12/05
Noncertification letter and information on appeal process, First Health, 2/1/06
Letters from John Masciale, MD, 1/17/06, 5/10/05, 4/25/05, 9/20/05, 6/7/05, 9/14/04, 6/29/04, 4/13/04, 2/17/04, 1/6/04, 4/4/03, 11/26/02, 11/25/03, 7/10/03, 6/11/02, 2/5/02, 10/16/01, 8/3/01, 7/13/01, 6/22/01, 6/13/01, 5/30/01, 3/13/01, 3/31/01, 1/5/00, 3/14/00, 9/12/00, 7/19/00
Preoperative Office Visit notes, Jose Recio, PA and John Masciale, MD, 6/4/04
History and physical, Thomas Edwards, MD, 4/21/03
Physical Therapy Re-Evaluations, 11/15/04, 11/23/04, 12/8/04
Physical Therapy Progress note, 11/30/04
Physical Therapy Discharge Summary, 12/15/04
Referral for PT, 11/9/04
Discharge Summary, Kang Sun Lee, MD, 6/25/04
Records from Warm Springs Rehabilitation System, 6/22/04 - 6/25/04
Pathology report, 6/7/04
Physical Therapy Initial Evaluation, 6/30/04
Radiology reports, 6/1/04, 6/7/04
Progress note, Thomas Edwards, MD, 3/29/04, 8/6/03, 5/12/03, 6/4/03, 11/17/03, 6/30/03
Evaluation, Bernard Perron, MD, 1/29/04
Page from Guides to the Evaluation of Permanent Impairment
Radiology report, 12/18/03
Fax coversheet, South Texas Pain Management Center, 6/20/03
Required Medical Evaluation, Lawrence Lenderman, MD, 6/6/03
Initial Psychological Evaluation, 7/21/03
Cover Letter, Innovative Risk Management, 5/31/06
Preauthorization request, Orthopaedic Associates of Corpus Christi, 4/10/03
Physician Update, Bedside Home Healthcare, 7/5/01

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Home Health Certification and Plan of Care with addendum, 6/7/01
Initial Medical Admission Assessment, Bayside Home Health Care, Inc., 6/7/01
Bayside Home Health Care notes, 6/7/01
Anesthesia Record, 5/31/01
Radiology Reports, 5/31/01, 11/26/99
History and physical, Walter Del Gallo, MD, 11/22/99
Referrals for PT, 10/18/99, 9/20/99
PT notes and re-evaluations, 9/20/99 - 10/28/99
Progress notes, 5/3/99, 9/10/99
Preauthorization request, CorVel, 1/19/00
Initial Medical Narrative, Jose De Jesus Trevino, MD, 1/13/00
Follow up report, Jose de Jesus Trevino, MD, 2/29/00
Report of Medical Evaluation, 7/7/00, 6/28/00
Work Status Reports, 7/19/00, 3/14/00, 9/12/00, 3/31/01, 8/3/?
Disability Evaluation, Charles Kennedy Jr MD, 6/28/00
Request for Report of Medical Evaluation, 7/10/00
Mileage reimbursement requests, 6/7/00, 1/22/01
Copy of insurance card
Authorization for Release of Information, 4/4/00
Procedure record, 1/24/00
Notification of Maximum Medical Improvement and/or Impairment Rating, 7/21/00
Recommendation for Spinal Surgery with list of providers, 3/21/01
Spinal Surgery Recommendation Notice, 3/21/01
Consultation, Kang Sun Lee, MD, 6/11/04
Letter from Richard Carlson, MD, 4/5/01
Second Opinion Dr. Agreement form, 4/4/01
Preauthorization request, Orthopaedic Associates of Corpus Christi, 5/10/01
Treatment Recommendation, Health Net Plus, 6/25/04, 6/16/04
Workers' Compensation Status Report, 12/21/04
RS Medical Prescription, 12/17/01
Worker's Compensation Setup Form
Managed Care Pre-Authorization of Services form, 1/12/02
Pre-Authorization Intake form, 1/16/02
Fax Coversheet, Orthopaedic Associates of Corpus Christi, 1/18/02

Summary of Treatment/Case History:

The patient is a 61 year-old female with date of injury in _____. She had 2 lumbar surgeries, in 2001 and 2004. She had ongoing radicular pain, and had had some ESIs without relief. She was taking Lortab, Avinza, Percocet, and Fiorocet with side effects and poor pain control. The patient had a psychological evaluation that deemed her a good candidate for an intrathecal trial, and this was done in 1/06. The patient had over 50% pain relief during the duration of the trial, with no side effects noted from the injected morphine. A permanent pump was requested and denied twice with the

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rationale that the patient needs a chronic pain program and to lose weight.

Questions for Review:

- Items in dispute: Preauthorization was denied for Intrathecal drug delivery system implantation under fluoroscopic guidance and MAC Anesthesia.

Explanation of Findings:

The patient has lumbar failed back surgery syndrome (FBSS) along with Addison's disease. She failed injection therapy. She is taking numerous oral narcotics, and failed Duragesic and Oxycontin. She has ongoing pain and side effect of constipation with these narcotics, requiring yet more medications. She had psychological clearance and a positive trial. A permanent implant is now the next reasonable step. While a chronic pain program may be helpful, it will not invasively reduce her pain, and may have no long-term effect at all. The pain program is designed to try and "reduce" reliance on medications but its outcome is uncertain as patients often regress. Losing weight is also an admirable idea, but one which may never come to fruition either, and may not impact on her pain considerably either. The pump is warranted clinically and psychologically.

Conclusion/Decision to Certify:

- Items in dispute: Preauthorization was denied for Intrathecal drug delivery system implantation under fluoroscopic guidance and MAC Anesthesia.

The Intrathecal drug delivery system implantation under fluoroscopic guidance and MAC Anesthesia is warranted clinically and psychologically.

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

Common practice among pain and osteopathic physicians.

References Used in Support of Decision:

Practical Management of Pain by Raj copyright 2000. Interventional Pain Management by Waldman and Winnie copyright 2001.

The physician providing this review is board certified in Anesthesiology and is a doctor of Osteopathy. The reviewer is currently an attending physician at a major medical center providing anesthesia and pain management services. The reviewer has participated in undergraduate and graduate research. The reviewer has been in active practice since 1988.

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

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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: Valerie O ext 554

Cc: Requestor
Respondent