

August 11, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-1427-01

CLIENT TRACKING NUMBER: M2-06-1427-01/5278

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, 6/1/06 – 2 pages
- Medical Dispute Resolution Request/Response, 6/1/06 – 4 pages
- Table of Disputed Services, undated – 1 page
- Review Determination, 5/5/06 – 2 pages
- Review Determination, 5/16/06 – 2 pages

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Records Received from Dr. Jorge Tijmes:

- Office Notes, 5/27/05 – 1 page
- Initial Examination, 6/7/05 – 4 pages
- Office Notes, 6/24/05 – 2 pages
- Letter of Medical Necessity for Lumbar Discogram, 9/27/05 – 2 pages
- Orthopedic Visit Notes, 9/27/05 – 3 pages
- Specific and Subsequent Medical Reports, 11/1/05–11/3/05 – 4 pages
- Operative Report, 11/7/05 – 2 pages
- History and Physical, 11/7/05 – 1 page
- X-Ray, L-Spine, 11/7/05 – 1 page
- Lab Results, 11/4/05 – 3 pages
- Specific and Subsequent Medical Reports, 11/15/05–11/22/05 – 4 pages

Records Received from the Requestor:

- Response to the IRO Assignment and Request for Medical Records, 6/8/06 – 12 pages
- Initial Evaluation Narrative, 5/25/05 – 6 pages
- Texas Workers' Compensation Work Status Report, 5/26/05 – 1 page
- Employee's Request to Change Treating Doctors, 6/1/05 – 1 page
- Consultation, 6/6/05 – 2 pages
- Texas Workers' Compensation Work Status Report, 6/6/05 – 1 page
- Initial Functional Capacity Evaluation, 6/22/05 – 12 pages
- Re-Evaluation Narrative, 8/3/05 – 6 pages
- Texas Workers' Compensation Work Status Report, 8/3/05 – 1 page
- Second Functional Capacity Evaluation, 8/15/05 – 11 pages
- Consultation, 9/12/05 – 2 pages
- Texas Workers' Compensation Work Status Report, 9/12/05 – 1 page
- Consultation, 11/2/05 – 2 pages
- Third Functional Capacity Evaluation, 11/14/05 – 11 pages
- Consultation, 11/17/05 – 2 pages
- Re-Evaluation Narrative, 2/8/06 – 6 pages
- Re-Evaluation Narrative, 3/22/05 – 4 pages
- Nerve Conduction and EMG Studies, 3/23/06 – 1 page
- Consultation, 3/29/06–4/19/06 – 4 pages
- Texas Workers' Compensation Work Status Report, 5/22/06 – 1 page
- Consultation, 5/22/06 – 2 pages
- Electromyography and Nerve Conduction Velocity Report, 11/3/05 – 7 pages
- Report of Medical Evaluation, 6/21/06 – 1 page
- Designated Doctor Report, 3/21/06 – 4 pages

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- Designated Doctor Report, 10/10/05 – 4 pages
- Texas Workers' Compensation Work Status Report, 10/10/05 – 1 page
- Office Notes, 10/10/05 – 4 pages
- Diagnostic Interview, 7/18/05 – 6 pages
- Psychotherapy Progress Notes, 10/21/05 – 1 page
- Diagnostic Interview, 11/30/05 – 7 pages
- Group Therapy Notes, 12/27/05–2/6/06 – 4 pages
- Mental Health Evaluation with Assessment Testing, 4/20/06 – 13 pages
- Psychophysiological Profile Assessment, 4/20/06 – 4 pages
- Follow Up Visit, 10/11/05–11/23/05 – 4 pages
- Operative Report, 12/5/05 – 2 pages
- Follow Up Visit, 1/9/06 – 1 page
- Operative Report, 2/1/06 – 2 pages
- Follow Up Visit, 3/1/06 – 1 page
- Operative Report, 3/15/06 – 2 pages
- Follow Up Visit, 4/12/06–5/3/06 – 2 pages
- Office Notes, 2/2/06–3/28/06 – 4 pages
- Consultation, 6/24/05 – 2 pages
- Initial Examination, 6/7/05 – 4 pages

Records Received from the Respondent:

- Designated Doctor Request, 6/26/06 – 1 page
- Report of Medical Evaluation, 7/17/06 – 1 page
- Review Determinations, 4/17/06–5/30/06 – 11 pages
- Designated Doctor Evaluation, 7/17/06 – 5 pages

Summary of Treatment/Case History:

The patient is a 38-year-old female lifeguard who, on ____, was involved with some rescue safety training when – acting as a pretend “victim” – she slipped off the stretcher while being lifted from the water and hit the concrete edge of the pool against her lumbar spine. Immediately following the incident, she had lower back pain with intermittent radiation of pain into her bilateral buttocks and great toes. She received 2 weeks of physical therapy under a medical doctor’s care, but then changed to a doctor of chiropractic on 6/7/05, who continued her physical therapy and rehabilitation.

Over the course of the year, the medical records reveal that she has received medications, chiropractic care, physical therapy, rehabilitation, lumbar epidural steroid injections (ESIs), 2 sacroiliac (SI) joint injections, work hardening, and individual psychotherapy sessions.

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Questions for Review:

Item(s) in dispute: Pre-Authorization denied for Chronic Pain Management for 30 sessions. Address medical necessity only. Do not comment on any enclosed plan language.

Explanation of Findings:

Item(s) in dispute: Pre-Authorization denied for Chronic Pain Management for 30 sessions. Address medical necessity only. Do not comment on any enclosed plan language.

In the preamble of the Texas Workers Compensation Commission’s amendments to rule 134.600, the Commission states as follows: “Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers’ compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop.” In its report to the legislature, the Research and Oversight Council on Texas Workers’ Compensation explained its higher costs compared to other health care delivery systems by stating, “Additional differences between Texas workers’ compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers’ compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)” In this case, the provider’s requested chronic pain management program (CPMP) is just the type of questionable services of which the TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

Furthermore, current medical literature states, “...there is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care.” The literature further states “...that there appears to be little scientific evidence for the effectiveness of multidisciplinary biopsychosocial rehabilitation compared with other rehabilitation facilities...” And, a systematic review of the literature for a multidisciplinary approach to chronic pain found only 2 controlled trials of approximately 100 patients with no difference found at 12-month and 24-month follow-up when multidisciplinary team approach was compared with traditional care. Based on those studies and absent any documentation that the proposed CPMP would be beneficial, it is medically unnecessary.

More importantly, the previously attempted work hardening program had within it the self-help strategies, coping mechanisms, exercises and modalities that are inherent in and central to the proposed the proposed CPMP. In other words, for all practical purposes, much of the proposed treatment program has already been attempted and failed. Therefore, since the patient is not likely

to benefit in any meaningful way from repeating unsuccessful treatments, the CMPC is medically unnecessary.

Based on those findings, the doctor of chiropractic withheld a proper regimen of this type of treatment. Therefore, all indicated treatments were not performed, thus making the proposed CPMP medically unnecessary.

Conclusion/Decision to Not Certify:

The CPMP was not medically necessary.

References Used in Support of Decision:

1. 26 Tex. Reg. 9874 (2001)
2. "Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77th Legislature, page 6.
3. Karjalainen K, Malmivaara A, van Tulder M, Roine R, Jauhiainen M, Hurri H, Koes B. Multidisciplinary biopsychosocial rehabilitation for neck and shoulder pain among working age adults. *Cochrane Database Syst Rev.* 2003;(2): CD002194.
4. Karjalainen K, et al. Multidisciplinary rehabilitation for fibromyalgia and musculoskeletal pain in working age adults. *Cochrane Database of Systematic Reviews* 2000; 2.
5. Bigos S., Bowyer O., Braen G., et al. Acute Low Back Problems in Adults. Clinical Practice Guideline No. 14. AHCPR Publication No. 95-0642. Rockville, MD: Agency for Health Care Policy and Research, Public Health Service, U.S. Department of Health and Human Services. December, 1994.
6. Muller, R. Giles, G.F. *J Manipulative Physiol Ther* 2005; 28:3-11.
7. Haas M, Group E, Kraemer DF. Dose-response for chiropractic care of chronic low back pain. *Spine J.* 2004 Sep-Oct; 4(5): 574-83. "There was a positive, clinically important effect of the number of chiropractic treatments for chronic low back pain on pain intensity and disability at 4 weeks. Relief was substantial for patients receiving care 3 to 4 times per week for 3 weeks."

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

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

In accordance with Division 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 11 day of Aug/2006.

Jamie Cook

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, and 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

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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.

1235111.1

Case Analyst: Jamie C ext 583

CC: requestor and respondent

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