

MATUTECH, INC.

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Date: July 3, 2006

Rebecca Farless
Texas Department of Insurance
Division of Worker's Compensation
Fax: (512) 804-4871

Re: Medical Dispute Resolution
MDR Tracking #: M2-06-1520-01
DWC#: _____
Injured Employee: _____
DOI: _____
IRO#: IRO5317

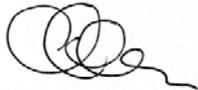
Dear Ms. Farless:

Matutech, Inc., has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were obtained from James Tanner, D.C. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by the physician who is licensed in chiropractic, and is currently on the DWC Approved Doctors List.

Sincerely,



John Kasperbauer
Matutech, Inc.

REVIEWER'S REPORT

Information provided for review:

Request for Independent Review

Information provided by (unidentified source):

Therapy notes (08/05/2005 – 12/22/2005)
Clinic notes (08/12/2005 – 01/06/2006)
Radiodiagnostics (08/08/2005 – 12/01/2005)
Procedure notes (09/30/2005 – 12/07/2005)
Electrodiagnostics (10/13/2005)

Information provided by James Tanner, D.C.:

Therapy notes (01/25/2006 – 05/19/2006)
Office notes (09/12/2005 – 04/28/2005)

Information provided by (unidentified source):

Therapy notes (01/10/2006- 01/25/2006)
Radiodiagnostics (08/18/2005)
Clinic notes (09/12/2005 – 10/21/2005)

Information provided by (unidentified source):

Therapy/office notes (01/25/2006 – 05/05/2006)
Clinic visits (09/12/2005 – 05/19/2006)
Radiodiagnostics (08/18/2005 – 12/23/2005)
Procedure notes (12/01/2005 – 12/07/2005)

Clinical History:

This is a 58-year-old male who was pulling a probe looking for a sewer line and he felt a sharp pain to his lower back. On August 5, 2005, a physical therapy (PT) evaluation was performed. The patient complained of low back pain. He was on Lortab and a muscle relaxant. There was minimum-to-moderate loss of range of motion (ROM) of the lumbar spine. In August, the patient attended nine sessions of PT comprising hot/cold packs, electrical stimulation, and aquatic therapy. Jeffrey Johnson, M.D., prescribed Lortab, Medrol, Zanaflex, and Naprosyn. Magnetic resonance imaging (MRI) of the lumbar spine revealed: (1) Old Schmorl's nodules along the inferior vertebral endplate of L1, superior and inferior vertebral endplates of L2 and L3. (2) At L4-L5, there was a degenerative disc with a posterior central right and left paracentral radial annular tear. (3) At L5-S1, there was a degenerative disc and a grade I spondylolisthesis at L5-S1 secondary to the presence of spondylolysis involving the respective pars interarticularis of L5 bilaterally. In the T1 and T2WI, there was evidence of a posterior central, right and left paracentral (left and right neural foramina high-signal intensity) consistent with radial annular tears.

John Borkowski, M.D., examined the patient for severe pain to the lower back with the onset of right lower extremity radiating pain. It was associated with episodic numbness and tingling in the right leg. The patient had one intramuscular injection without much relief. His gait was guarded and he had some give way weakness to the right lower extremity on dorsiflexion due to a severe increase in pain. The patient had a grossly positive right-sided straight leg raise (SLR) test. X-rays demonstrated evidence of radiographic instability and the presence of a grade I-grade II spondylolisthesis at L5 on S1. In September, Dr. Borkowski performed a transforaminal epidural steroid injection (ESI) at the right L5 and S1. It did not provide much benefit. Electromyography/nerve conduction velocity (EMG/NCV) study of the lower extremities revealed the presence of an asymmetrical, predominantly sensory peripheral neuropathy with demyelinating and axonal features. The asymptomatic lower extremity seemed disproportionately involved. The patient attended a single session of PT in October. On December 19, 2005, Dr. Borkowski performed the following: Gill laminectomy bilaterally at L5; partial bilateral laminectomies at L4; bilateral decompressive foraminotomies at L4-L5 and at L5-S1; local bone graft harvest; posterior iliac bone graft harvest; pedicle screw fixation and fusion at L4, L5, and S1 bilaterally. In December, the patient underwent five sessions of PT consisting of hot/cold packs, electrical stimulation, therapeutic exercises, and aquatic therapy.

2006: From January 3, 2006, through May 10, 2006, the patient attended 41 sessions of PT with the aforementioned modalities plus manual therapy and neuromuscular re-education. The patient continued to have problem sleeping at night for which Dr. Borkowski prescribed some chlorohydrates. On x-rays, the fusion mass was consolidating on the right, all the way to S1. The patient admitted to some residual postoperative low back pain depending upon the level of his activity. Dr. Borkowski gave prescriptions for naproxen, Lortab, and Flexeril. Michael LeCompte, D.O., a designated doctor, stated the patient had not achieved maximum medical improvement (MMI). He recommended returning to light duty with activity restrictions, and progressing to a work hardening/work conditioning program. In May, James Tanner, D.C., noted that the patient had made good progress on PT and requested additional 12 sessions of PT, which were not preauthorized. The rationale was that the current request exceeded ACOEM and ODG PT Guidelines for the work injury. Dr. Tanner modified his request for 10 PT sessions.

On May 19, 2006, Dr. Tanner saw the patient for an impairment rating (IR). Most of the radicular symptoms had resolved, although sensory function was slightly diminished in the L5 and S1 dermatomes on the right. A functional capacity evaluation (FCE) demonstrated the patient to function at a medium physical demand level (PDL) versus his job requirement of heavy PDL. Dr. Tanner assessed clinical maximum medical improvement (MMI) as of May 19, 2006, and assigned 20% whole person impairment (WPI) rating. On May 24, 2006, the requested PT was denied for reason as follows: The patient had received 36 postop PT which exceeded the ODG/TWC treatment guideline, and Dr. Tanner had instructed the patient on a home exercises program.

Disputed Services:

PT visits to include therapeutic exercises (97110), therapeutic activities (97530), manual therapy (97140), massage therapy (97124), and neuromuscular re-education (97112) from

Explanation of Findings:

According to the medical records reviewed, the claimant was injured on 8-1-05. The claimant underwent surgery to the lumbar spine which included a two level fusion. The claimant was cleared to begin postoperative rehabilitation to the spine and began rehab on 12-16-05. The rehab continued through May of 2006 when he was placed at MMI by his treating doctor. The treatments in question are therapeutic exercises, therapeutic activities, manual therapy, massage therapy and neuromuscular re-education. According to the Official Disability Guidelines, 2005, treatment to the lumbar spine after surgery can last up to 34 visits. In addition, the North American Spine Society's Guidelines for multidisciplinary Spine Care Specialists, 2003, also states that beyond 16 weeks from the start of rehabilitation, a patient is in the tertiary phase of care. This phase of care has treatments which include work conditioning, work hardening, and chronic pain programs. Continued passive and/or active therapies are not performed in this phase of care. Thus, according to the previously stated guidelines, the treatments in question are not medically necessary to treat this patient at this time.

Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn denial:

Uphold Denial

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

Official Disability Guidelines, 2005
North American Spine Society Guidelines for Multidisciplinary Spine Care Specialists, 2003

The physician providing this review is a chiropractor. The reviewer is national board certified in chiropractic as well as pain medicine. The reviewer has been in active practice for 7 years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile a copy of this finding to the provider of records, payer and/or URA, patient and the Texas Department of Insurance.

Matutech retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by Matutech clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the Utilization Review Accreditation Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by Matutech 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 Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech 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. 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.

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.