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August 25, 2006

Texas Department of Insurance
Division of Worker's Compensation
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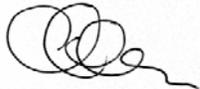
Re: Medical Dispute Resolution
MDR Tracking #: M2-06-1692-01
DWC#: _____
Injured Employee: _____
DOI: _____
IRO#: IRO5317

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 Neuromuscular Institute and Harris & Harris, Attorney at Law. 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 physical medicine and rehabilitation 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 Neuromuscular Institute:

Office notes (10/1/04 – 6/23/06)
Radiodiagnostic studies (10/12/04 - 11/12/04)
Electrodiagnostic studies (2/8/05)
FCE (12/20/04)

Information provided by Harris & Harris, Attorney at Law:

Office notes (11/23/04 – 5/5/06)
Radiodiagnostic study (11/12/04)
Electrodiagnostic study (2/8/05)
FCE (12/20/04)
Independent Medical Evaluation (1/31/05)
Designated Doctor Examination (4/13/06)

Clinical History:

This 42-year old male was passenger in an ambulance en route to an emergency scene when the ambulance was broad-sided by another vehicle. As a result, he injured his neck and shoulders.

In October, Conrad Kothmann, D.C., saw the patient for pain in the cervicothoracic area, bilateral shoulder blades, and thoracolumbar region. The patient had had two separate prior injuries to his neck and right shoulder in 1998 and 2001 (treated with therapy). He was on Wellbutrin, propoxyphene, and naproxen. Following the recent injury, the patient had been to the emergency room (ER) and had attended two sessions of physical therapy (PT). Dr. Kothmann initiated therapy and issued a neuromuscular stimulator and a lumbar support belt for sprain/strain to the spine. X-rays of the cervical spine and thoracic spine were unremarkable. X-rays of the lumbar spine revealed degenerative spurring at L2-L3, L3-L4, and L4-L5 with mild retrolisthesis of L3 on L4. Morris Lampert, M.D., prescribed Zanaflex, Celebrex, and Ultram. The patient also had headaches and tinnitus. Magnetic resonance imaging (MRI) of the cervical spine revealed mild disc space narrowing with mild posterior annular bulge and small posterolateral osteophytes at C3-C4; moderate disc space narrowing with a mild posterior annular bulge at C5-C6; mild posterior annular bulge at C6-C7; and a relatively small spinal canal diffusely on a congenital basis. MRI of the lumbar spine revealed degenerative disc space narrowing, disc desiccation, and annular bulges at L3-L4 and L5-S1. David Hirsch, D.O., a pain management physician, planned a trigger point injection (TPI). A functional capacity evaluation (FCE) was carried out, in which the patient was believed to be able to tolerate the work activities of his job.

In an independent medical evaluation (IME) in 2005, Michael LeCompte, D.O., felt that the mechanism and history of injury was consistent with the diagnosis and the ongoing treatment was reasonable. Electromyography/nerve conduction velocity (EMG/NCV) study revealed mild carpal tunnel syndrome (CTS) bilaterally. Dr. Hirsch assessed cervicothoracic bursitis at C7-T1. He performed TPIs on two occasions and also administered an injection for the cervical/thoracic bursitis. Zanaflex and Ultracet were refilled.

In January 2006, Dr. Hirsch administered Botox injections for persistent myofascial pain syndrome. The patient also reported some photosensitivity and photophobia. Dr. Burdin felt that this was related to the original work-related accident. Louise Bayer, M.D., a designated doctor, stated the patient was not at maximum medical improvement (MMI) and a follow-up with a pain specialist for therapeutic injections and an ENT consultation for complaints of tinnitus was recommended.

In May 2006, Dr. Lampert recommended a repeat MRI of the cervical spine and prescribed Neurontin due to the persistent symptomatology. There were spasms in the cervical region along with restricted rotation. On May 24, 2006, and June 7, 2006, requests for the repeat MRI of the cervical spine were not authorized for the following reasons: (1) November 2004 cervical spine MRI did not show any cord or nerve root compression. The finding of spondylosis was just a disease of life. (2) The latest soap note did not document any significant changes of history and physical examination. There was no documentation of a specific cervical diagnosis or significant abnormal objective findings on physical examination of the cervical spine.

Dr. Burdin stated that in the past the patient had been treated with epidural steroid injections (ESI) to the cervical spine, which were helpful for a short period of time. Per Dr. Burdin, MRI was a year old, and it was certainly reasonable to get a new MRI scan to make sure that there had not been any changes in the presentation of the disc with time. On June 20, 2006, Dr. Hirsch reported that the patient had failed Botox injections. Dr. Hirsch recommended a trial of cervical ESIs.

On June 23, 2006, the patient rated his neck pain at 3/10. Compressive procedures of the head and neck were uncomfortable. There was restricted cervical ROM secondary to spasm. Dr. Burdin filed a dispute against the denial of the cervical MRI.

Disputed Services:

Repeat MRI cervical spine.

Explanation of Findings:

Based on the medical records, specifically the MRI, there is no evidence of acute or subacute change or harm to the physical structure, only chronic changes as seen in ordinary disease of life and there is no documentation of progressive deterioration of the patient's condition.

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

Based on the records, the mechanism of injury and current condition, a repeat MRI is not justified as related to the reported injury. Therefore, the decision is upheld.

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

My opinions are based on experience, training and various published protocols, including the example below, the criteria for repeat MRI as established by the courts in Rhode Island, which are typical criterion for repeat MRI:

“A repeat MRI study is indicated only if:

- 1) There are clear clinical or radiographic signs of significant progression.
- 2) A repeat study may be useful after surgery if a patient's condition fails to improve. In this situation, contrast material should be used to differentiate between further disc material and scar tissue.”

The physician providing this review is a physician, doctor of medicine. The reviewer is national board certified in physical medicine and rehabilitation. The reviewer is a member of American Academy of Physical Medicine and Rehabilitation. The reviewer has been in active practice for twenty-three 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.