MATUTECH, INC.

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August 9, 2006

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

Re: Medical Dispute Resolution

MDR Tracking #:	M2-06-1730-01
DWC#:	___
Injured Employee:	___
DOI:	___
IRO#:	IRO5317

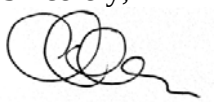
Dear Ms. Farless:

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 Eric Taylor, D.C. and Utilization Management. 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 orthopedics 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 Eric Taylor, D.C.:

Therapy notes (10/07/05-04/12/06)
Office notes (07/12/04-08/29/05)
Independent reviews (07/21/04-11/21/05)
Electrodiagnostic test (06/04/04)
Diagnostic tests (02/24/05-03/29/05)

Information provided by Utilization Management:

Office Notes (07/12/04-06/08/06)
Therapy Notes (04/01/06-06/07/05)
Procedure Note (01/27/05-03/23/05)
Diagnostic tests (02/09/04-03/29/05)

Clinical History:

This is a 29-year-old female who lifted a 75-pound box and she heard a "pop" in her back and developed lower back pain. On February 9, 2004, a computerized tomography (CT) of the lumbar spine revealed left posterolateral and foraminal herniated nucleus pulposus (HNP) and right foraminal protrusion, loss of disc space height, and a Schmorl's node, at L4-L5; and an inferior endplate Schmorl's node at L3. Magnetic resonance imaging (MRI) revealed mild posterior central disc protrusions at L4-L5 and L5-S1. An electrodiagnostic study of lower extremities was unremarkable. In July, John Sazy, M.D., an orthopedic surgeon, noted the patient had attended physical therapy (PT) and had been on Tylenol. Dr. Sazy assessed posterior annular tear at L5-S1 and spinal stenosis at L4-L5. As the patient was 18 weeks pregnant, Dr. Sazy could not undergo further workup. PT and medications were continued. On July 21, 2004, Hank Miller, D.C., assessed maximum medical improvement (MMI) and assigned 5% whole person impairment (WPI) rating.

In 2005, Ved Aggarwal, M.D., noted a positive straight leg raise (SLR) test on the right and decreased sensations in the L5 dermatome. He assessed lumbar radiculitis and spondylosis, and administered a series of three epidural steroid injections (ESI) at L5-S1. Tylenol was continued. Lumbar discogram and CT revealed annular tears at L3-L4, L4-L5, and L5-S1; and most severe pain at L5-S1. There was a thin anterior annular tear leading to small concentric extensions at L3-L4 and bilateral posterolateral radial tears at L4-L5 and L5-S1. Dr. Aggarwal prescribed Flexeril and Vicodin. From April through November, the patient attended 22 sessions of chiropractic therapy.

Dr. Sazy recommended transforaminal lateral interbody fusion (TLIF) at L5-S1, upon reviewing the discogram. The surgery was denied since the patient was noted to have degenerative disease. A psychological screening was performed. Eight sessions of individual psychotherapy and antidepressants were recommended, considering the patient's symptoms of depression and anxiety. In a peer review, Thomas Sato, D.C., opined that chiropractic therapy beyond July 2004, was not necessary.

In 2006, hydrocodone was continued for persistent low back and leg pain. From March through April, the patient attended five sessions of chiropractic therapy. Dr. Taylor ordered electrodiagnostic studies. Dr. Sazy advised the patient to loose weight and recommended surgery at L5-S1. A request for the surgery was denied since it was noted that the neurological examination had been normal and there had been no spinal instability reported. Also no psychological evaluation was reported.

On June 8, 2006, Dr. Sazy requested reconsideration stating that the patient needed a spinal fusion in view of her persistent discogenic back pain and a failure of nonoperative treatment. On June 12, 2006, the surgery request was denied since it was determined that there were no gross abnormal physical findings and no lumbar instability.

Disputed Services:

Lumbar TLIF with PSF at L5-S1.

Explanation of Findings:

Please refer to the above summary with the final diagnosis of L5-S1 discogenic pain/annular tear at L4-5, left posterior lateral and foraminal disc herniation, right foraminal protrusion and L3-4 degenerative disc disease.

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

The denial, in my opinion, should be overturned considering the fact that Dr. Sazy continues to feel the patient would benefit from interbody fusion and posterior spinal fusion at L5-S1. My only concern is the fact the patient has degenerative changes at L3-4 and a disc herniation at L4-5, which may contribute to the patient's continued leg pain. In my opinion, the patient is, at minimum, a candidate for decompressive operation at L4-5 with the instrumented fusion and interbody fusion at L5-S1. However, based on the results of the discogram, which are not available for my review, more levels may be needed to be included in the fusion to ensure the patient the best outcome over the long term. The patient may not have instability as suggested by other reviewers; however, instability is only one of many indications for lumbar spine fusion. Certainly, in a patient with a disc herniation and a significant proportion of their pain arising from their back, specifically those patients who have been confirmed to have discogenic pain on lumbar discography with pressure monitoring, are certainly candidate for a fusion concurrently with a decompressive procedure. Providing a patient with a decompression only in the face of severe unremitting back pain would provide them with a guaranteed unsuccessful result. In patients such as Ms. ___ with multiple level involvement, the

decision becomes more difficult in that some authors and spine surgeons feel that stopping their fusion next to an adjacent degenerated segment would be deleterious to long term outcomes of the patient's procedure whereas others feel that stopping the fusion next to an adjacent level does not increase or worsen the chance of adjacent level degeneration over that of natural history. The fact of the matter is that many patients benefit significantly from discogenic back pain operations if there are no psychological abnormalities, if there is no chronic pain behavior, if the patient has failed all nonoperative measures and has undergone provocative discography with very low pressures required to reproduce the patient's concordant pain. Although there are not many people that are great candidate for this procedure, those who are selected carefully and who are also surgically treated in a very meticulous manner can have significant improvement in their pain. Many authors such as Kozak Etal have shown 90% good to excellent outcomes for two and one level fusions in this category and 78% good to excellent outcomes for three level fusions of this type. Moore Etal also found similar findings and greater than 90% success rate with respect to fusion and the outcome in patients who had two and three level disease treated through an anterior posterior combined fusion and found that 86% of their patients were able to have functional improvement to the point that they were able to return to work in the Worker's Compensation setting. In the right hands, spine fusions for back pain can be successful. Candidates should be very carefully selected. As mentioned above, a meticulous procedure should be performed by a fellowship trained spine surgeon in order to maximize the patient's chances of improving. Ms. ___ has a less straight forward answer as the adjacent levels may continue to become abnormal or worsen, thus resulting in a failed procedure. The results of the discogram should be carefully evaluated, and a decision to fuse the patient's adjacent levels to L5-S1 should be made based on the amount of pressure required to reduce the patient's pain and the appearance of the adjacent level discs. In Ms. ___'s case, fusing only the L5-S1 level may predispose the L4-5 level which has already been noted to have disc herniations bilaterally, to further worsening and progression of symptoms. Once again, it is a very strongly held flawed philosophy that fusions are only indicated in patients with trauma, tumor or instability. There are many patients with isolated disease, clearly at two and one level and also, in the eyes of many authors, at three levels who can be good candidate for this type or procedure. Although the literature is quite controversial with respect to the indications for these surgeries and the successful outcomes reported across the board, the decision appears to be Dr. Sazy's to make. I would only strongly encourage him to evaluate very carefully the discography results to ensure the concordant levels are included in the fusion to decrease the patient's risk of adjacent level progression of disease.

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

Please refer to the above comments.

The physician providing this review is a Fellowship Trained Spine Surgeon. The reviewer is national board eligible by the American Board of Orthopedic Surgeons. The reviewer has been in active practice for 9 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.