

July 28, 2006

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

CLAIMANT: \_\_\_

EMPLOYEE: \_\_\_

POLICY: M2-06-1732-01

CLIENT TRACKING NUMBER: M2-06-1732-01

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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 dated 7/21/06, 19 pages

RECORDS RECEIVED FROM THE REQUESTOR:

Revised Texas Outpatient Non Authorization Recommendation, 16 pages

MRI Lumbar Spine dated 08/17/04, 2 pages

2875 S. Decker Lake Drive Salt Lake City, UT 84119 / PO Box 25547 Salt Lake City, UT 84125-0547

(801) 261-3003 (800) 654-2422 FAX (801) 261-3189

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EMG/NCV Study dated 08/24/05, 4 pages  
MRI Lumbar Spine dated 07/18/05, 2 pages  
Medical Records Dr. Gerardo Zavala, 5/5/06, 4/7/06, 4 pages  
Mental Health Assessment, undated, 13 pages  
Letter of Reconsideration dated 05/31/06, 6 pages  
Letter of medical necessity dated 5/18/06, 4 pages  
Treatment Plan, 5/12/06, 16 pages  
Opioid analgesic extinction plan, 5/18/06, 5 pages

**Summary of Treatment/Case History:**

The patient is a 40 year-old male who is reported to have injured his low back while picking up box weighing 40 to 60 pounds on \_\_\_\_\_. The clinical record is scant and the patient's history is largely reconstructed through inference.

The patient was first treated by Dr. Guel, and later Dr. Castillo who then referred the patient for passive and active physical therapy. The patient was later referred to Dr. Shahid Rashid. The patient was referred for MRI of the lumbar spine on 08/17/04. This study indicates the patient had significant comorbid degenerative disease at the time of injury. The report notes spondylosis and degenerative disc disease from L2/3 to L5/S1. There is a central disc protrusion at L4/5. At L5/S1 there is moderate foraminal stenosis secondary to a disc protrusion and facet arthropathy. There is slight bilateral foraminal stenosis from L2/3 to L4/5. The patient was referred for electrodiagnostic studies on 08/24/05. This study suggests a right L5 radiculopathy. The patient was again referred for MRI of the lumbar spine on 07/18/05. This study does not suggest a progression of the degenerative process.

The patient was seen by Dr. Gerardo Zavala on 04/07/06. He reports the patient has a diagnosis of multiple herniated discs and a chronic pain syndrome. He indicates the patient was recommended to undergo VAX-D therapy. On physical examination the patient has decreased lumbar range of motion, decreased sensation in the right L5 and S1 distributions, no motor deficit, symmetric reflexes, and a positive right straight leg raise. Dr. Zavala reports the patient is afraid to have surgery. The patient was seen by Dr. Zavala on 05/05/2006. At this time the patient is stable and his examination is unchanged. Dr. Zavala notes the patient was not approved for VAX-D therapy or a Chronic Pain Management Program.

The record infers but does not document that the patient had undergone physical therapy, oral medications, injections, and a work hardening program.

The patient was referred for Mental Health Assessment. After careful review the report does not indicate a date of evaluation. On page 4 of this report the patient is referred to as Mr. Mojica under the paragraph titled "Mental Health Interventions". This suggests that this report is a template and

may not accurately reflect this patient's state of mental health. This section indicates the patient has had individual psychotherapy but does not quantify the number of treatments. This paragraph also appears to be incomplete. The last sentence states "However, even though psychotherapy was mildly to moderately helpful". This thought is incomplete. On page 6 of this report the patient's pre-treatment BDI is 46 and BAI is 42. After psychotherapy this is reduced to a BDI of 28 and BAI of 27.

**Questions for Review:**

Date of service pre auth:

1. Item(s) in Dispute: Pre auth denied for chronic pain management times 20 sessions. Please review for medical necessity.

**Explanation of Findings:**

1. Item(s) in Dispute: Pre auth denied for chronic pain management times 20 sessions. Please review for medical necessity.

No. The medical records as submitted do not establish the medical necessity of this program. First, the submitted record fails to document that the patient has completed conservative care. The Mental Health Assessment alludes that the patient has undergone interventional procedures. However, these are not quantified or supported by procedure reports. The imaging studies indicate that this patient has degenerative spinal disease and note the presence of facet disease. It is unclear if the facet disease has been adequately treated with injections. The report alludes that the patient is not a surgical candidate. However, the record actually indicates that the patient is afraid of surgery. This suggests that the patient was considered a surgical candidate at one point. The record indicates the patient has made substantial gains with individual psychotherapy. The Mental Health Assessment indicates an almost 50% reduction in Beck Depression Inventory (BDI) and Beck Anxiety Inventory (BAI) as a result of oral medications and individual psychotherapy. This appears to have been an effective treatment for the patient. There is no documentation to support that a chronic pain management program would be any more beneficial to the patient than the current individualized treatment.

The Official Disability Guidelines reports:

Criteria for the use of Multi-disciplinary pain management programs:

Outpatient pain rehabilitation programs may be considered medically necessary when all of the following criteria are met:

- 1) The patient's chronic pain is attributable to a physical cause.
- 2) Previous methods of treating the chronic pain have been unsuccessful and a multidisciplinary program would likely be beneficial.

3) The patient has a significant loss of ability to function independently resulting from the chronic pain.

Integrative summary reports that include treatment goals, progress assessment and stage of treatment, must be made available upon request and at least on a bi-weekly basis during the course of the treatment program.

The available information does not document that the patient has completed or failed all conservative care. It does indicate the patient has made substantial progress with individual psychotherapy and oral medications. Provided this information the request for a chronic pain management program x 20 would not be considered medically necessary.

**Conclusion/Decision to Not Certify:**

The proposed 20 sessions of a pain management program is not medically necessary.

**References Used in Support of Decision:**

1. The American College of Occupational and Environmental Medicine Guidelines. Accessed: 07/28/2006.
2. Laxmaiah Manchikanti, MD, Vijay Singh, MD, David Kloth, MD, Curtis W. Slipman, MD, Joseph F. Jasper, MD, Andrea M. Trescot, MD, Kenneth G. Varley, MD, Sairam L. Atluri, MD, Carlos Giron, MD, Mary Jo Curran, MD, Jose Rivera, MD, A. Ghafoor Baha, MD, Cyrus E. Bakhit, MD and Merrill W. Reuter, MD. American Society of Interventional Pain Physicians Practice Guidelines. Pain Physician, Volume 4, Number 1, pp 24-98, 2001.
3. Delisa J, Gans B, Nicholas, Walsh N, et. el. Physical Medicine and Rehabilitation: Principles and Practice, Lippincott Williams & Wilkins; 4th edition (October 30, 2004).
4. The Official Disability Guidelines, 11th edition, The Work Loss Data Institute. Accessed: 07/28/2006.
5. Clinical practice guidelines for chronic non-malignant pain syndrome patient II: An evidence-based approach, J Back Musculoskeletal Rehabil 1999 Jan 1

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The physician who provided this review is board certified by the American Board of Neurological Surgery. This reviewer is a member of the American Association of Neurological Surgeons and the Congress of Neurological Surgeons. This reviewer has been in active practice since 2002.

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 28 day of Jul/2006.

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Stacie Sterken

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

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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 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.

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Case Analyst: Stacie S ext 577