

August 25, 2006

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

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M2-06-1802-01
CLIENT TRACKING NUMBER: M2-06-1802-01/5278

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, 8/10/06 - 2 pages
- Medical Dispute Resolution Request/Response, 8/10/06 - 4 pages
- Table of Disputed Services, undated - 1 page
- UniMed Direct LLC Determination, 7/12/06 - 3 pages

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- UniMed Direct LLC Determination, 6/29/06 – 2 pages

Records Received from Robert Henderson, MD:

- Chart Note, 9/28/04–6/2/06 – 3 pages
- Lumbar Spine MRI, 8/16/04–5/17/06 – 3 pages
- Caudal Epidural Steroid Block, 11/10/04 – 1 pages
- Chart Notes, 6/26/06 – 1 page

Records Received from Arkansas Claims Management Inc:

- Letter from Arkansas Claims Management Inc to MRIOA, 8/17/06 – 1 page
- Independent Review Organization Summary, 8/16/06 – 2 pages
- Employer's First Report of Injury or Illness, 7/4/04 – 1 page
- Notice of Disputed Issues(s) and Refusal to Pay Benefits, 8/5/04–8/16/06 – 4 pages
- Spinal Surgery Form, undated – 5 pages
- Emergency Physician Record, undated – 1 page
- Emergency Nursing Notes, undated – 4 pages
- Lumbar Spine Radiographs, 7/4/04 – 2 pages
- Notes, 7/6/04–8/4/04 – 6 pages
- Texas Workers' Compensation Work Status Report, 7/10/04–8/5/04 – 3 pages
- Report of Injury, 8/5/04 – 1 page
- Radiographic Report, 8/16/04 – 1 pages
- Notes, 8/5/04 – 5 pages
- Lumbar Spine MRI, 8/16/04 – 1 page
- Nerve Conduction Study, 8/17/04 – 3 pages
- Texas Workers' Compensation Work Status Report, 8/20/04 – 1 page
- Veracity Investigator, 8/23/04 – 5 pages
- Left Ankle MRI, 8/26/04 – 1 page
- Medical Progress Evaluation, 9/1/04 – 2 pages
- MRI of Cervical Spine, 9/13/04 – 1 page
- Medical Progress Evaluation, 9/15/04 – 2 pages
- Texas Workers' Compensation Work Status Report, 9/20/04 – 1 page
- Health and Behavior Intervention Symptom Pre-Screen, 9/20/04 – 5 pages
- Chart Notes, 9/28/04 – 2 pages
- Behavioral Medicine Evaluation, 10/8/04 – 6 pages
- Texas Workers' Compensation Work Status Report, 10/18/04 – 1 page
- Emergency Physician Record, undated – 3 pages
- Emergency Nursing Notes, 10/26/04 – 3 pages
- Pelvis Radiographs, 11/4/04 – 1 page
- Emergency Physician Record, 11/4/04 – 2 pages

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- Emergency Nursing Notes, 11/4/04 – 4 pages
- Caudal Epidural Steroid Block, 11/10/04 – 1 pages
- Texas Workers' Compensation Work Status Report, 11/16/04 – 1 page
- HealthSouth Evaluation, 11/19/04 – 3 pages
- Texas Workers' Compensation Work Status Report, 11/19/04 – 1 page
- Medical Progress Evaluation, 12/1/04 – 2 pages
- Texas Workers' Compensation Work Status Report, 12/16/04 – 1 page
- Functional Capacity Evaluation, 1/10/05 – 24 pages
- Texas Workers' Compensation Work Status Report, 1/12/05 – 1 page
- Health and Behavioral Intervention Reassessment Summary, 1/24/05 – 3 pages
- Medical Progress Evaluation, 2/9/05 – 2 pages
- Texas Workers' Compensation Work Status Report, 2/11/05 – 1 page
- Consultation, 2/15/05 – 1 page
- Spinal Ultrasound, 2/17/05 – 1 page
- Nerve Conduction Studies, 2/17/05 – 2 pages
- BHCA Position Letter, 2/25/05 – 4 pages
- Office Notes, 3/23/05 – 2 pages
- Texas Workers' Compensation Work Status Report, 3/30/05 – 1 page
- Medical Progress Evaluation, 4/1/05 – 2 pages
- Functional Capacity Evaluation, 4/8/05 – 16 pages
- EMG/NCS Report, 4/14/05 – 5 pages
- Texas Workers' Compensation Work Status Report, 4/28/05 – 1 page
- Office Notes, 5/19/05 – 1 page
- Medical Progress Evaluation, 6/15/05 – 2 pages
- Emergency Physician Record, 6/20/05 – 2 pages
- Emergency Nursing Notes, 6/20/05 – 2 pages
- Labs, 6/20/05 – 1 page
- Consultation, 6/22/05 – 5 pages
- Center for Pain Control Notes, 6/22/05–7/28/05 – 19 pages
- Texas Workers' Compensation Work Status Report, 8/1/05 – 1 page
- Center for Pain Control Notes, 8/19/05–9/26/05 – 14 pages
- Office Notes, 10/19/05 – 2 pages
- Center for Pain Control Notes, 10/25/05–11/8/05 – 8 pages
- Functional Capacity Evaluation, 11/22/05 – 14 pages
- Center for Pain Control Notes, 11/23/05–3/30/06 – 32 pages
- Lumbar Spine MRI, 5/17/06 – 2 pages
- Chart Notes, 6/2/06 – 1 page
- Center for Pain Control Notes, 6/8/06–7/17/06 – 9 pages
- Initial Narrative Report, 8/5/04 – 3 pages

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- Chiropractic Daily Notes, 8/6/04–10/5/04 – 14 pages
- SOAP Notes, 10/5/04–10/12/04 – 4 pages
- Chiropractic Daily Notes, 10/12/04–11/23/04 – 5 pages
- SOAP Notes, 11/15/04–12/21/04 – 16 pages
- Counseling Notes, 10/28/04–12/16/04 – 12 pages
- SOAP Notes, 1/13/05 – 2 pages
- Chiropractic Daily Notes, 5/3/05–5/24/05 – 4 pages
- Letter of Medical Necessity, undated – 1 page
- Chiropractic Daily Notes, 4/12/05–4/28/05 – 6 pages
- SOAP Notes, 2/22/05 – 2 pages
- Chiropractic Daily Notes, 2/22/05 – 1 page
- Chiropractic Daily Notes, 10/18/04–3/30/05 – 8 pages
- SOAP Notes, 3/25/05–3/28/05 – 3 pages
- Chiropractic Daily Notes, 12/16/05–7/20/06 – 15 pages
- Brief Summary, undated – 9 pages
- References for Screening Criteria, undated – 20 pages

Summary of Treatment/Case History:

This 43-year-old female sustained an injury to her back and left ankle as a result of a slip and fall on _____. The records indicated that the patient was initially evaluated and diagnosed with a back/buttock contusion, ankle sprain, and thorax contusion. Conservative treatment included medication and therapy. A lumbar MRI on 08/14/04 showed no evidence of an acute fracture, but did show evidence of a central disc herniation at L4–5 with effacement of the thecal sac.

A physician examination on 09/28/04 noted the patient had continued deterioration in regards to the back and leg pain. The patient was diagnosed with spondylosis and herniated nucleus pulposus at L4–5 with lumbar radicular symptomatology. A caudal epidural steroid block followed on 11/10/04.

On 10/18/04, a behavior evaluation was done and the patient was diagnosed with major depressive disorder secondary to the compensable injury. The evaluating physician recommended conservative care and noted that the depression and anxiety symptoms would likely hinder the recovery process and counseling sessions were recommended.

In 2005, a spinal ultrasound showed diffuse inflammatory changes, a NCS of the lower extremities was normal, and a dermatome evoked potential of the lower extremities showed findings of left S1 and right L4 and L5 radiculopathies. A repeat EMG/NCS done in 4/05 showed findings consistent with L5 and S1 radiculopathy.

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An MRI of the lumbar spine was repeated on 05/12/06 and showed osteochondrosis at several levels with a disc protrusion at L1-2, an annular bulge at L4-5 and moderate facet arthropathy at L5- S1.

The patient reported constant back pain and frequent falls due to “giving way” of the left leg on a 06/02/06 physician visit. A diagnosis of internal disc disruption on top of spondylosis and disc resorption was made. Discography and a pain management referral were recommended and the patient was noted to be a surgical candidate.

A follow up physician visit on 06/26/06 noted the patient with unremitting and debilitating pain with continued frequent falls. The previous caudal steroid block provided minimal response and the lumbar discography was denied. A lumbar anterior discectomy and interbody fusion was recommended.

Questions for Review:

Preauth denied for anterior interbody fusion L4-S1, retroperitoneal exposure and diskectomy L4-S1, anterior interbody fixation, posterior decompression L4-S1, transverse process fusion L4-S1, posterior internal fixation L4-S1, bone graft allograft, bone graft autograft in situ, bone graft autograft iliac crest, bone marrow aspirate, cybertech TLSO as not medically necessary.

Explanation of Findings:

Preauth denied for anterior interbody fusion L4-S1, retroperitoneal exposure and diskectomy L4-S1, anterior interbody fixation, posterior decompression L4-S1, transverse process fusion L4-S1, posterior internal fixation L4-S1, bone graft allograft, bone graft autograft in situ, bone graft autograft iliac crest, bone marrow aspirate, cybertech TLSO as not medically necessary.

The proposed lumbar fusion cannot be recommended as medically necessary for this patient. The patient has evidence of degenerative disc disease, but no evidence of spinal instability. According to ACOEM Guidelines, in the absence of spinal instability, spinal fusion has not been shown to be effective. In addition, spine fusion has not been shown to be an effective procedure for degenerative disc disease which is certainly what this patient has. Consequently, the proposed fusion cannot be recommended as medically necessary for this patient.

Conclusion/Decision to Not Certify:

The anterior interbody fusion L4-S1, retroperitoneal exposure and diskectomy L4-S1, anterior interbody fixation, posterior decompression L4-S1, transverse process fusion L4-S1, posterior internal fixation L4-S1, bone graft allograft, bone graft autograft in situ, bone graft autograft iliac crest, bone marrow aspirate, and cybertech TLSO is not medically necessary.

References Used in Support of Decision:

1. Official Disability Guidelines Fourth Edition Treatment in Worker's Compensation 2006 p. 814-816
2. ACOEM Guidelines Chapter 12, pg 307

The physician providing this review is board certified in Orthopaedic Surgery. The reviewer is a member of the American Academy of Orthopaedic Surgeons, the American Medical Association, the North American Spine Society, the Pennsylvania Medical Society, the Pennsylvania Orthopaedic Society, and the American Association for Hand Surgery and is certified in impairment rating evaluations through the Bureau of Workers Compensation. The reviewer has publication experience within their field of specialty and has been in private practice since 1995.

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 25 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 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: Jamie C ext 583

CC: patient and provider

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