

MATUTECH, INC.

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September 7, 2006

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

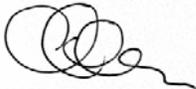
Re: Medical Dispute Resolution
MDR Tracking #: M2-06-1829-001
DWC#: _____
Injured Employee: _____
DOI: _____
IRO#: IRO5317

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 Lawrence Wilk, M.D., AMRAS, Texas Department of Transportation, and Family Medicine Associates. 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 Lawrence Wilk, M.D.:

Letter of opinion (08/10/2006)

Information provided by AMRAS:

Office notes (03/03/2006 – 05/31/2006)
Laboratory reports (03/03/2006 – 03/05/2006)
Radiodiagnostics (03/02/2006)
Procedure note (03/23/2006)
Electrodiagnostic study (04/11/2006)
Therapy notes (05/09/2006)

Information provided by Texas Department of Transportation:

First report of injury
Clinic notes (02/28/2006 – 05/31/2006)
Emergency room records (03/01/2006)
Radiodiagnostics (03/02/2006 and 03/03/2006)
Procedure note (03/23/2006)
Electrodiagnostic study (04/11/2006)
Therapy notes (03/31/2006 – 05/30/2006)

Information provided by Family Medicine Associates:

Clinic notes (05/07/2002 – 03/02/2006)

Clinical History:

This is a 53-year-old male who injured his lower back while stepping off a ladder.

Prior to the current injury, the patient was treated in 2002 by John Dang, M.D., for conjunctivitis following a foreign body into the right eye. The patient saw Steven Johnson, M.D., in 2003 for heat affect related to his insulin dependent diabetes mellitus. On September 25, 2003, the patient fell off a truck onto the truck bed with resultant pain radiating from the cervical spine down to the lumbar spine. He also injured his elbow. His left foot felt "numb" or "dead". X-rays of the lumbar spine showed mild degenerative changes and early osteophyte formations. Dr. Johnson assessed back contusion and strain. He prescribed Bextra, Ultracet, and ice/heat application. The patient was allowed to return to duty, but with specific activity restrictions.

On February 28, 2006, Dr. Johnson evaluated the patient for low back pain radiating to the lateral aspect of the right and left legs, and the right thigh. The patient's history was

found significant for diabetes mellitus type I with peripheral neuropathy. On examination of the spine, right bending movements were painful. Paraspinal muscle spasms were noted along with tenderness over the sacroiliac (SI) region. Dr. Johnson diagnosed low back pain, lumbosacral joint/ligament sprain, and sciatica. He prescribed Ultracet, amitriptyline, and Celebrex. In March, the patient visited the emergency room (ER) for low back pain radiating down the right leg. The patient also complained of sensory disturbances in the right foot. Injections of Demerol, Phenergan, and Toradol were administered. Lortab was prescribed.

Magnetic resonance imaging (MRI) of the lumbar spine showed a mild annular disc bulge at L4-L5, and a 2-3 mm focal disc herniation at L5-S1 on the right, slightly pressuring the right S1 nerve root and the right corner of the thecal sac. In March, Dr. Johnson admitted the patient for pain control. X-rays and an MRI of the lumbar spine were performed adding no new findings. CBC and urinalysis were normal. Blood glucose levels were elevated. The patient was treated with injections of Demerol, and oral Celebrex, amitriptyline, and Ultracet. The patient was later discharged.

On March 6, 2006, Shawn Henry, D.O., evaluated the patient. Pain was rated at 10/10, with relief only when lying down. The patient was unable to stand. On examination, he had a positive log roll, and bilaterally positive Patrick's maneuvers and straight leg raise (SLR) tests. The assessment was low back pain secondary to internal disc derangement at L5-S1 with herniated nucleus pulposus (HNP) at the right L5-S1 producing radicular leg pain. Dr. Henry prescribed Percocet, Zanaflex, and Phenergan. He administered a lumbar epidural steroid injection (ESI). Electromyography/nerve conduction velocity (EMG/NCV) study was suggestive of bilateral S1 radiculopathy and demyelinating polyneuropathy (i.e., diabetic neuropathy). Physical therapy (PT) was initiated, but it exacerbated the patient's symptoms. On April 20, 2006, Dr. Henry declared that the patient had failed conservative management. He felt that the best option would be an anterior lumbar interbody fusion (ALIF) at L5-S1.

Dr. Johnson prescribed Celebrex and started the patient on aquatic therapy. Up to May 30, 2006, the patient attended nine sessions of aquatic therapy. The patient, however, continued to experience pain. Dr. Henry decided to submit a request for ALIF at L5-S1. The request was denied for the following reasons: The submitted documentation did not depict a clear surgical condition. There was mention that the patient had spondylolisthesis at L5-S1, but no radiological confirmation of this assertion was included in the review material. A report from March 6, 2006, indicated "no evidence of instability" on flexion and extension x-rays. Lumbar MRI demonstrated only bulging discs. There was no neurological deficit demonstrated in the clinical notes. EMG demonstrated mixed abnormalities with a component of radiculopathy and a component of diabetic neuropathy. Based on what submitted, the documentation did not support a medical necessity of ALIF.

On August 10, 2006, Lawrence Wilk, M.D., an orthopedic surgeon, stated that based on the review of the medical records submitted, he agreed that there was no definite clear surgical lesion at L5-S1 requiring an ALIF at L5-S1. It was quite possible that the back pain could be due to degenerative changes, and the leg pain might be due to diabetic neuropathy, which needed to be investigated. The actual mechanism of injury and the

subsequent injury should only be a low back strain that should resolve within a six to eight weeks. There was no clear indication for performance of the surgery.

Disputed Services:

Anterior lumbar interbody fusion at L5-S1.

Explanation of Findings:

The patient is a 53 year old diabetic who complained of lower back pain after stepping off a ladder. Imaging studies have shown a disc protrusion at L4-5 and L5-S1. The patient has had one epidural steroid injection as well as physical therapy and medication. Shawn Henry, D.O., has now recommended an anterior lumbar interbody fusion at L5-S1.

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

Decision is to uphold the denial.

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

Guidelines to arrive at the decision are very similar to Dr. Wilk's guidelines. There is no clear surgical indication that the patient's pain is caused by the L5-S1 disc problem. Electrodiagnostic studies have shown mixed results including diabetic neuropathy which may explain the patient's neurologic symptoms in his leg. This needs to be further investigated. The injury of stepping off a ladder should not cause an injury to require an anterior lumbar interbody fusion at L5-S1. In all likelihood the patient sustained a lumbar strain which should resolve within the first six to eight weeks. With the present documentation provided there is no clear indication that the patient needs surgery at L5-S1.

The physician providing this review is a Fellowship Trained Spine Surgeon. The reviewer is a Diplomate of American Orthopedic Surgery. 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.