

September 14, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-1844-01

CLIENT TRACKING NUMBER: M2-06-1844-01-5278

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 state:

Notification of IRO Assignment 08/16/2006

Letter to MRIOA from DWC 08/01/2006

Medical Dispute Resolution Request/Response forms

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

www.mrioa.com A URAC Accredited Company

Table of Disputed Services

List of treating providers

CorVel reviews 06/22/2006, 07/19/2006

Report of Medical Evaluation, J. Thomas Dilger, Jr. MD, 06/22/2006

Office Notes, C. Ricardo Estrada, DO, 04/17/2006, 05/23/2006

Evaluation, Dr. Dilger, 06/22/2006

Records from respondent:

Letter to MRIOA from Flahive, Ogden & Latson 08/31/2006

Letter to DWC from Flahive, Ogden & Latson 08/14/2003

CorVel review 08/14/2006

Coversheet initial request for services submitted on 06/16/2006

Patient information

Office notes, Dr. Estrada, 04/17/2006, 05/23/2005

MRI Lumbar Spine 05/12/2006

EMG Report 10/28/2004

Coversheet reconsideration request for services submitted on 07/12/2006

Fax coversheet from Dr. Estrada 07/12/2006

Evaluation, Dr. Dilger, 06/22/2006

Office notes, Dr. Estrada, 04/17/2006, 05/23/2006

Records from treating provider:

MRI Lumbar Spine 05/12/2006

MRI Lumbar Spine 10/14/2004

Plain Film and CT Lumbar report following intrathecal administration of contrast material
12/18/1998

Lumbosacral Myelogram report 12/18/1998

EMG Report 10/28/2004

Office notes 06/27/2006, 08/22/2006

Office notes, Dr. Estrada, 11/19/1998, 10/13/2004, 10/19/2004, 11/09/2004, 11/16/2004,
04/17/2006, 05/23/2006

Letter from Dr. Estrada 08/04/2006

Summary of Treatment/Case History:

The patient is a 37 year old male who reports sustaining an injury to his low back on _____. On this date the patient fell backwards while attempting to wash a semi engine, landing on his back. The patient had sudden onset of low back pain and was seen by L. Benavides, his family doctor. The patient was treated with oral medications and made no sustained improvement.

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

www.mrioa.com A URAC Accredited Company

The patient was later referred to Dr. Ricardo Estrada who referred the patient for an MRI of the lumbar spine on 11/06/1998. This study revealed a central disc herniation at L1-2 and a right paracentral HNP with impingement of the epidural fat and deflecting the transiting right S1 nerve root at L5-S1. The patient was referred for epidural steroid injections; however, these were never performed. The patient was treated with physical therapy 3 times a week with some relief of his pain. The patient continued to complain of low back pain over many years.

The patient was referred again for MRI of the lumbar spine on 10/14/2004. The impression was a right posterior lateral disc extrusion with slight displacement of the right S1 nerve root at L5/S1. The patient was later sent for an EMG/NCV of the lower extremities on 10/28/2004. This study indicated a right moderate, active, and chronic L5 radiculopathy.

The patient was again referred for MRI of the lumbar spine on 05/12/2006. This study was compared against the 10/14/2004 study. It reports at L5/S1 there is disc disease with interval progression of the disc extrusion, which extends posteriorly approximately 7 mm and is central, right paracentral in location. There has also been interval development of a disc fragment immediately adjacent to and extending caudally from the disc extrusion measuring as much as 13 mm in greatest height. This also leads to further narrowing of the spinal canal at the level of L5 with narrowing of the canal by as much as 11 mm. There is evidence of posterior displacement of the right underlying nerve roots. The disc extrusion and fragment are subligamentous in location. There is evidence of mild facet arthropathy. The combination of disc bulge and facet disease leads to severe narrowing of the bilateral neural foramina. There are some mild degenerative changes noted at L1/2, L2/3 and L3/4. At L4/5 there is no narrowing of the central or lateral spinal canal. Disc bulge leads to mild narrowing of the bilateral neural foramina.

The patient came under the care of Dr. Ricardo Estrada. On 05/23/2006, Dr. Estrada reports that the patient has not responded to non-invasive pain management, and indicates that the patient has already undergone an EMG study in 2004 in which there was mild to moderate active and chronic L5 radiculopathy, as well as an L4/5 radiculopathy. Dr. Estrada opines that the patient would benefit from neurosurgical intervention.

The patient was seen by designated doctor, Thomas Dilger, on 06/22/2006. Dr. Dilger reports the history above and reports that the patient never underwent epidural steroid injections. He notes that the patient has continued to work with lumbar spine pain. He notes that the patient has undergone a myriad of diagnostic studies that confirmed a discogenic source for his pain. He reports that the patient's most recent MRI of the lumbar spine reveals an extruded disc fragment which has migrated posteriorly and anteriorly. On physical exam, he notes that the patient has a

moderate impairment of lumbar range of motion. He has dermatomal loss on the right side from L2 to L4 and S1. He has loss of the right ankle deep tendon reflex, and a positive straight leg on the right with recreation of pain result in the supine straight leg raise on the left. He has no strength deficits and one Waddell's sign. Axial rotation is positive. Dr. Dilger opines that the patient is not at MMI and recommends a second opinion via a neurosurgeon in San Antonio. He recommends a lumbar laminectomy with discectomy with removal of extruded disc fragment as soon as possible, and physical therapy postoperatively. Dr. Estrada has requested a laminectomy with discectomy and fusion at L4/5 and L5/S1 with 2-3 days LOS. This has been reviewed by two separate physician advisors who have non-certified the request.

Questions for Review:

1. Is a laminectomy with discectomy and fusion at L4-5 and L5-S1 with 2-3 days LOS medically necessary?

Explanation of Findings:

1. Is a laminectomy with discectomy and fusion at L4-5 and L5-S1 with 2-3 days LOS medically necessary? No. The available medical record indicates that the patient has a significant extruded disc fragment as a result of a disc herniation at L5-S1. There is no indication from these records that the patient has an unstable motion segment at L4-5 or L5-S1 that would require a fusion procedure. Additionally, the most recent MR imagery finds no significant abnormalities at L4-5. Bambakidis et al report "In cases of progressive neurologic deterioration or in the presence of mild to moderate myelopathy and concordant radiographic abnormality, the neural elements should be decompressed. Decompression may be accompanied by appropriate fusion, instrumentation, or both when instability or spondylolisthesis is documented radiographically". The available medical record does not support the request for a fusion procedure.

Conclusion/Decision to Not Certify:

A laminectomy with discectomy and fusion at L4-5 and L5-S1 with 2-3 days LOS is not medically necessary.

References Used in Support of Decision:

1. Nicholas C. Bambakidis, MD, Iman Feiz-Erfan, MD, Jeffrey D. Klopfenstein, MD, and Volker K. H. Sonntag, MD. Indications for Surgical Fusion of the Cervical and Lumbar Motion Segment. Spine 2005; 30: S2-S6.

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 14 day of Sep/2006.



Lori Behrend

MRloA 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.

1252636.1

lb

cc: requestor and respondent

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

www.mrioa.com A URAC Accredited Company