

MATUTECH, INC.

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October 13, 2006

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

Re: Medical Dispute Resolution
MDR Tracking #: M2-07-0013-01
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 Stephen Ozanne, M.D. and Robert Henderson, M.D. 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 neurosurgery 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 Stephen Ozanne, M.D.:

Office notes (11/15/05 - 08/23/06)
Radiodiagnostics (10/27/05)
Therapy notes (11/21/05 – 01/09/06)
Lumbar Epidural Steroid Injections (ESIs) (12/30/05 and 01/30/06)

Information provided by Robert Henderson, M.D.:

Office notes (08/23/06)
Radiodiagnostics (10/27/05)

Information provided by an unknown provider:

Office notes (07/31/06 - 08/23/06)
Radiodiagnostics (10/27/05)

Clinical History:

This 41-year-old patient injured her low back while lifting dead animals out of a freezer and experienced radiation of pain and numbness in both legs.

On October 27, 2005, magnetic resonance imaging (MRI) of the lumbar spine revealed degenerative disc desiccation, posterior annular tear, and posterior subligamentous disc herniation at L5-S1. Stephen Ozanne, M.D., treated the patient with physical therapy (PT), Darvocet, Lortab, Norco, and Elavil. The patient also received a series of two lumbar epidural steroid injections (ESI). In June 2006, Dr. Ozanne referred the patient to Dr. Henderson due to failure of the conservative treatment. Robert Henderson, M.D., a spine surgeon, diagnosed severe spondylosis, subligamentous herniated nucleus pulposus (HNP), and disc resorption at L5-S1. He recommended artificial disc replacement (ADR). The surgery was denied by the carrier twice. Dr. Henderson opined that the ADR was not experimental and it was a viable alternative to fusion for treatment of isolated disc pathology without significant radicular involvement.

Disputed Services:

Total disc arthroplasty of L5-S1.

Explanation of Findings:

Clinical history reviewed:

1. Clinical history by Matutech Incorporated for an Independent Review Organization report.
2. A lumbar MRI report on 10/27/05 by Albert Tesoriero, M.D.
3. 11/15/05 report by Stephen Ozanne, M.D., and also reports by the same person on 1/9/06, 1/18/06, 2/15/06, 5/13/06, 6/23/06 and 8/5/06.
4. An 11/25/05 physical therapy evaluation report.
5. Op reports regarding ESIs on 12/30/05 and 1/30/06.
6. A discharge summary from a physical therapist on 1/4/06.
7. Initial chart note by Robert Henderson, M.D., on 7/31/06 and a follow-up report by the same person on 8/23/06.
8. Corvel Corporation's denial of total disc arthroplasty on 8/11/06 and 8/21/06.

This patient, now a 42-year-old female, on ____ was bending over a freezer removing dead animals when she developed back pain. The pain seemed to extend into the right lower extremity and continues to do so. There was also some degree of bilateral lower extremity discomfort. Light duty did not help. Physical therapy, medications, and ESIs have not helped. Vaginal bleeding led to a hysterectomy on 5/11/06, after which her discomfort has continued in her low back.

A lumbar MRI on 10/27/05 showed a disc herniation at L5-S1 with significant degenerative disease changes at that level with a remainder of the lumbar disc being "normal".

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

Overturn. I disagree with the denial for total disc replacement at the L5-S1 level.

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

There are several factors regarding the rationale behind that decision. This patient has a single level pathology which in all medical probability, producing her discomfort and under those circumstances the proposed procedure is more indicated than if there were several levels of involvement. In addition the person has had considerable conservative measures including injections, but she continues to have pain. She has chosen disc replacement after being totally informed with the lack of any guarantee that this would help, as would be the case with fusion. This procedure can no longer be considered experimental since it has been used with significant success as it has been reported to her. More years of follow-up evaluation will be necessary before the final analysis can be obtained, but there are reports of reasonable success, even in the elderly. (General Neurosurgery: Spine Volume 4 Number II page eighty-five dated February 2006). Several reports from Europe have similar success.

The physician providing this review is a spinal neurosurgeon. The reviewer is national board certified in neurological surgery. The reviewer is a member of the American Association of Neurological Surgeons, The Congress of Neurological Surgeons, The Texas Medical Association, and The American Medical Association. The reviewer has been in active practice for 40 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 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.