

October 12, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-07-0014-01

CLIENT TRACKING NUMBER: M2-07-0014-01-5278

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, 9/21/06 - 2 pages
- Medical Dispute Resolution Request/Response, 9/21/06 - 4 pages
- Table of Disputed Services, undated - 1 page
- Denial Letters, 7/28/06-8/16/06 - 3 pages

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

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Records Received from Insurance Company (Respondent):

- Preauthorization Responses, undated – 2 pages
- Employer’s First Report of Injury or Illness, 10/24/05 – 1 page
- Case Information, undated – 1 page
- Radiology Reports, 1/20/06 – 2 pages
- Preauthorization Requests, 2/9/06–8/10/06 – 17 pages
- Office Notes, 1/30/06–9/7/06 – 65 pages
- PT Referral, 1/30/06 – 1 page
- Request for Physician Advisement, 2/14/06 – 2 pages
- Notice of Referral to Physician Advisement, 2/13/06 – 2 pages
- Texas Workers’ Compensation Work Status Report, 2/13/06–9/7/06 – 16 pages
- Preauthorization Log, 2/9/06–8/10/06 – 2 pages
- Denial Letters, 2/14/06–8/8/06 – 6 pages
- Operative Record, 2/21/06–6/20/06 – 10 pages
- Operative Reports, 2/21/06–3/31/06 – 16 pages
- Review of Medical History and Physical Exam, 2/21/06 – 3 pages
- DWC–69 – Reports of Medical Evaluation, 2/21/06–5/21/06 – 2 pages
- Report of Medical Evaluation, 2/21/06–9/11/06 – 6 pages
- Release of Information, 2/23/06 – 1 page
- Initial Assessment Report, 2/28/06 – 6 pages
- Peer Review, undated – 1 page
- Medical Examination Notice, 3/23/06 – 2 pages
- Progress Reports, 3/29/06–5/31/06 – 9 pages
- Referral Form, 4/21/06 – 1 page
- NCS Report, 5/3/06 – 9 pages
- Designated Doctor Request, 6/4/06–9/8/06 – 7 pages
- Procedure Notes, 6/20/06 – 4 pages
- Designated Doctor Evaluation, 7/10/06 – 5 pages
- Review Request, undated – 2 pages
- Request for Reconsideration, 8/22/06 – 2 pages
- Letter of Medical Necessity, 8/31/06 – 1 page

Records from Provider:

- Office Notes, 5/21/06–7/7/06 – 10 pages
- Procedure Notes, 6/20/06 – 4 pages

Summary of Treatment/Case History:

This is a 35-year-old male patient with a date of injury in _____. The patient had an MRI in 1/06 showing a protrusion at L4–5 and a bulge at L5–S1. He complained of low back pain to his buttocks

and thighs despite physical therapy (PT), medications, a lumbar support, and epidural steroid injections (ESIs). His clinical exam showed decreased lumbar range of motion (ROM) and positive straight leg raising (SLR). His right leg pain improved somewhat after the ESIs, but not his back pain. His independent medical examination (IME) of 4/06 recommended an EMG, but no surgery. His surgical consult of 4/06 recommended a discogram, as it was felt the patient could benefit from a disc replacement. The EMG of 5/06 suggested a right L5 radiculopathy, but was equivocal. The discogram was done by a pain physician on 6/20/06 at levels L3-S1. The L3-4 level was normal; L4-5 and L5-S1 showed bulging, but provocation did not produce pain. This is interpreted as a negative discogram. The neurosurgeon was not happy with this result and asked the pain physician to repeat the test as the patient received sedation during the test (which is necessary). An IME after the discogram stated that the surgeon wanted to do a disc replacement which is unproven so it was not recommended. A second discogram/CT is requested.

Questions for Review:

ITEMS(S) IN DISPUTE: Preauthorization denied for repeat lumbar discogram under anesthesia with fluoroscopic guidance.

Explanation of Findings:

ITEMS(S) IN DISPUTE: Preauthorization denied for repeat lumbar discogram under anesthesia with fluoroscopic guidance.

The patient had a full and thorough work up thus far including a discogram/CT which did not elicit any pain upon provocation of any disc. The surgeon's argument is that the patient was overly sedated, but the patient was still able to communicate during the procedure and did not indicate any pain. He was noted by his IME to have a very low pain threshold on exam, so theoretically, if any of his lumbar discs were painful, he would have responded positively. Also, the surgeon is requesting this test to determine if disc replacement is needed and this procedure itself remains unproven, especially if it involves 2 levels. The patient has an EMG and MRI showing pathology. The decision to do surgery should be weighed on these two tests versus a negative discogram. An MRI remains the gold standard of diagnostic testing while discograms are known to involve both subjective factors and user error and thus are not considered infallible. His was negative; it was done according to common practice and guidelines with good documentation. It does not need to be repeated.

Conclusion/Decision to Not Certify:

The repeat discogram/CT is not medically necessary.

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

Common practice among pain and osteopathic physicians.

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References Used in Support of Decision:

ACOEM guidelines copyright 2004 pg 303–305.

The physician providing this review is board certified in Anesthesiology and is a doctor of Osteopathy. The reviewer is currently an attending physician at a major medical center providing anesthesia and pain management services. The reviewer has participated in undergraduate and graduate research. The reviewer has been in active practice since 1988.

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 12 day of Oct/2006.

Jamie Cook

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.

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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: requestor and respondent