

MATUTECH, INC.

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October 24, 2006

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

Re: Medical Dispute Resolution
MDR Tracking #: M2-07-0099-01
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 Utilization Management and Gerardo Zavala, 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 pain management, 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 Utilization Management:

Office notes (04/25/06 - 08/23/06)
Procedure note (05/23/01)
Radiodiagnostic studies (06/13/05)
Electrodiagnostic studies (12/10/02)
Physical Performance Examination (05/24/06)

Information provided by Gerardo Zavala, M.D.:

Office notes (09/28/99 – 06/14/04)
FCE (04/13/00 - 11/29/05)
Electrodiagnostic studies (12/10/02 - 08/29/05)
Radiodiagnosics studies (01/02/01 - 06/13/05)
Procedure note (04/05/03)

Clinical History:

The 59-year-old patient was lifting boxes off the floor of a trailer onto a pallet when he felt sharp pain in his low and mid back, and neck region.

In September 1999, Gerardo Zavala, M.D., noted the patient had undergone conservative treatment with therapy and medications. Magnetic resonance imaging (MRI) showed a herniated disc at L4-L5. The patient was unable to meet his job capacity of medium a functional capacity evaluation (FCE) and a work hardening program was recommended. On May 23, 2001, Dr. Zavala performed L4-L5 and L5-S1 discectomies and posterior lumbar interbody fusion (PLIF) for herniated discs at L4-L5 and L5-S1 confirmed by MRI. In 2002, the patient had persistent low back and neck pain. Electrodiagnostic studies showed peripheral neuropathy of questionable etiology; L5/S1 radiculopathy, more on the right; bilateral carpal tunnel syndrome (CTS), right more than left; bilateral cubital tunnel syndrome, right more than left; mild C6/C7 radiculopathy, right more than left. Cervical MRI showed disc protrusions at C3-C4, C4-C5, C5-C6; and a large herniation at C6-C7. Thoracic MRI showed mild degenerative changes.

In 2003, x-rays showed fusion at L4-L5-S1. An infection had developed and the fusion was not well. The patient developed a foot-drop. On April 5, 2003, Dr. Zavala performed re-do fusion at L4-L5 and removal of the hardware.

In an FCE in 2004, the patient demonstrated sedentary physical demand level (PDL) and a chronic pain management program (CPMP) was recommended. X-rays showed degeneration at multiple lumbar levels.

In 2005, CT revealed postsurgical changes and right neural canal stenosis at L4-L5 and L5-S1; bilateral facet hypertrophy and spinal stenosis at L4-L5; degenerative spondylotic spurring, spondylotic disc bulge, facet hypertrophy at L1-L2 and L2-L3; and disc degeneration at L3-L4. Electrodiagnostic studies showed severe acute lower extremity diabetic neuropathy (motor and sensory) and chronic bilateral L4 motor radiculopathy. An FCE indicated that the patient could not go back to work because of his sedentary-to-light PDL. He was instructed in a home exercise program (HEP).

In April 2006, Dr. Zavala diagnosed lumbosacral radiculopathy with adhesions, chronic pain syndrome, and right foot-drop. The patient was advised to remain off work and a CPMP was requested. In a behavioral consultation, it was noted that the patient attended four sessions of individual psychotherapy in June 2004 and participated in a six-week CPMP in September 2004. Individual psychotherapy was recommended. The patient demonstrated moderate depression and anxiety symptoms. In a physical performance evaluation (PPE), the patient qualified at a sedentary PDL and it was suggested that he participate in a CPMP and individual psychotherapy. Donald Dutra, Jr., M.D., also concurred with the recommendation of CPMP. A request for CPMP was denied for the following reasons: *It was unclear if the recently approved total body bone scan and lumbar x-ray with fluoroscopy had been performed to rule out a current infectious process. Although the patient had chronic pain, anxiety, and depression, there was no indication that the patient who had already participated in a chronic pain program could not benefit from additional conservative levels of psychological care or that a repeat comprehensive pain program was necessary.* A reconsideration request for 20 sessions of CPMP was also denied for the following reasons: *The patient had participated interdisciplinary pain management program for approximately six weeks in September 2004. There had not been a significant interval change regarding the treatment history, and there was no clear indication to repeat involvement in an interdisciplinary pain management program. The patient had been allowed adequate exposure to this level of treatment and should be fully aware of non-pharmacologic techniques and pain modulating strategies for self-management of the chronic low back and lower extremity pain.*

Disputed Services:

Chronic pain management program x 20 sessions (97799-CP)

Explanation of Findings:

Please see above. Patient is s/p back fusion with long history of failed back syndrome.

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

Uphold decision. The information indicates a remote injury that has been aggressively treated with therapy, injections and ultimately surgery. The patient also has had aggressive post-op therapy including PMP in Sept. 2004. The patient would have to have been counseled on aspects of chronic pain, had psychologic interventions for pain, had reasonable physical therapy and instructed on home program and had appropriate pharmacologic management at that time. There is nothing in the subsequent 2 years that

would necessitate a repeat PMP. There is little in evidence based literature that supports necessity of 2 separate pain programs.

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

ACOEM Guides

The physician providing this review is a physiatrist. The reviewer is national board certified in physical medicine rehabilitation as well as pain medicine. The reviewer is a member of The American Academy of Physical Medicine and Rehabilitation, International Spinal Intervention Society, American Society for Intervention Pain Physicians. The reviewer has been in active practice for 10 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.