



Medical Review Institute of America, Inc.
America's External Review Network

Notice of Independent Review Decision

SENT TO: Texas Department of Insurance
Health & Workers' Compensation Network Certification and QA
Division (HWCN) MC 103-5A
Via E-mail IRODecisions@tdi.state.tx.us

Injured Employee/Requestor

Respondent
University of Texas System
Fax #214-648-5306

January 17, 2007

RE: IRO Case #: M2-07-0558-01
Name:
Coverage Type: Workers' Compensation Health Care (Non-network)
Type of Review: Pre-Authorization

Medical Review Institute has been certified, certification number 5278, by the Texas Department of Insurance (TDI) as an Independent Review Organization (IRO). TDI has assigned this case to the IRO for independent review in accordance with the Texas Insurance Code, the Texas Labor Code and applicable regulations.

The IRO has performed an independent review of the proposed/rendered care to determine if the adverse determination was appropriate. In the performance of the review, the IRO reviewed the medical records and documentation provided to the IRO by involved parties.

This case was reviewed by an ORTHOPEDIC SURGEON. The reviewer has signed a certification statement stating that no known conflicts of interest exist between the reviewer and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent (URA), any of the treating doctors or other health care providers who provided care to the injured employee, or the URA or insurance carrier health care providers who reviewed the case

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for a decision regarding medical necessity before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

As an officer of Medical Review Institute of America I certify that:

1. there is no known conflict between the reviewer, the IRO and/or any officer/ employee of the IRO with any person or entity that is a party to the dispute, and
2. a copy of this IRO decision was sent to all of the parties via U.S. Postal Service or otherwise transmitted in the manner indicated above on January 17, 2007.

Right to Appeal

You have the right to appeal the decision by seeking judicial review. The decision of the IRO is binding during the appeal process.

For disputes other than those related to prospective or concurrent review of spinal surgery the appeal must be filed:

- 1) directly with a district court in Travis County (see Labor Code §413.031(m), and
- 2) within thirty (30) days after the date on which the decision is received by the appealing party.

For disputes related to prospective or concurrent review of spinal surgery, you may appeal the IRO decision by requesting a Contested Case Hearing (CCH). A request for a CCH must be in writing and received by the Division of the Workers' Compensation, Division Chief Clerk, within ten (10) days of your receipt of this decision.

Sincerely,

Case Analyst: Lori B ext 569
Case Fulfillment Specialist

January 17, 2007

IRO Case #: M2-07-0558-01

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Pre-Authorization Request – Spinal Surgery– Disc Replacement w/Fusion

A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION

The physician who provided this review is a fellow of the American Board of Orthopaedic Surgery. This reviewer is a fellow of the North American Spine Society and the American Academy of Orthopaedic Surgeons. This reviewer has been in active practice since 1990.

REVIEW OUTCOME

Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

Partially Overturned

Provide a description of the review outcome that clearly states whether or not medical necessity exists for Spinal Surgery– Disc Replacement with Fusion.

The request for fusion is medically necessary. The request for disc replacement is not medically necessary.

INFORMATION PROVIDED TO THE IRO FOR REVIEW

Records from State:

Notification of IRO Assignment 12/20/2006 – 10 pages

Records from Respondent:

Letter to UT Systems Administration from Bruce M. Miller, MD 06/02/2004 – 2 pages

Worker’s Compensation Information 06/02/2004 – 1 page

Work Status Report 06/02/2004 – 1 page

MRI Right Shoulder 06/10/2004 – 2 pages

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Letter to UT Systems Administration from Dr. Miller 06/21/04 - 1 page
Evaluation and Treatment prescription 06/21/06 - 1 page
Work Status Report 06/21/2004 - 1 page
Physical Therapy Notes 06/23/2004- 03/14/2005 - 56 pages
Assignment of Proceeds, Lien, and Authorization 06/23/2004 - 1 page
Physical Therapy Initial Evaluation 06/23/2004, 07/08/2004 - 2 pages
Letter to UT System Workers Comp Insurance from Janis Wells, PT 06/28/2004 - 1 page
Request for Physical Therapy, Evaluate and Treat 07/02/04 - 1 page
Fax coversheet to Dr. Miller from Janis Wells, PT 07/02/2004 - 1 page
Letter to Dr. Miller from Janis Wells, PT 07/07/2004 - 1 page
Letter to UT Systems Administration from Dr. Miller 07/07/04 - 1 page
Work Status Report 07/07/2004 - 1 page
Evaluation and Treatment prescription 07/07/06 - 1 page
Request for Physical Therapy, Evaluate and Treat 07/19/04 - 1 page
Request for Physical Therapy, Evaluate and Treat 08/02/04 - 1 page
Letter to UT Systems Administration from Dr. Miller 08/04/04 - 1 page
List of charges - 2 pages
MRI Cervical Spine 09/01/2004 - 2 pages
Explanation of Benefits 09/01/2004 - 1 page
Letter to UT Systems Administration from Dr. Miller 09/08/04 - 1 page
Work Status Report 09/08/2004 - 1 page
Physical Therapy discharge summary 09/09/2004 - 1 page
Letter to UT Systems Administration from Jeffrey B. Wood, MD 09/16/2004 - 3 pages
Work Status Report 09/16/2004 - 1 page
Pre-authorization Report 10/11/2004 - 1 page
Nerve conduction report - 3 pages
Letter to UT Systems Administration from Dr. Wood 10/25/2004 - 1 page
Work Status Report 10/25/2004 - 1 page
Request for travel reimbursement 11/01/2004 - 1 page
Letter to UT Systems Administration from Dr. Wood 11/11/2004 - 2 pages
Work Status Report 11/11/2004 - 1 page
Prescription for Miami J Collar 11/11/2004 - 1 page
Fax transmission 11/12/2004 - 1 page
Pre-authorization Report 11/16/2004 - 1 page
Pre-authorization Report 11/16/2004 - 1 page
Letter to University of Texas System from MBMS, Inc 11/16/2004 - 2 pages
Request for a bone growth stimulator 11/23/2004 - 1 page

Letter to UT Systems Administration from Dr. Wood 11/29/2004 – 1 page
Work Status Report 11/29/2004 – 1 page
Letter from The University of Texas System 11/29/2004 – 1 page
Operative report 12/02/2004 – 2 pages
Neurophysiologic Monitoring Report 12/02/2004 – 1 page
Anesthesia record 12/02/2004 – 1 page
Monitoring report – 30 pages
Explanation of Benefits 12/02/2004 – 4 pages
Sugar Land Surgical Hospital, patient registration – 1 page
Patient Invoice 12/02/2004 – 1 page
Letter from Dr. Wood 12/06/2004 – 1 page
Fax coversheet dated 12/07/2004 – 1 page
Request for Claims Processing 11/15/2004 – 1 page
Letter to UT Systems from Dr. Wood 12/16/2004 – 1 page
Work Status Report 12/16/2004 – 1 page
Letter to UT Systems from Dr. Wood 01/21/2005 – 1 page
Work Status Report 01/21/2005 – 1 page
Order for PT dated 01/21/2005 – 1 page
Letter to UT Systems from Dr. Wood 01/24/2004 – 1 page
Request for Physical Therapy, Evaluate and Treat 01/31/05 – 1 page
Medical Records, Kelly Czajkoski, DC 02/09/05 – 1 page
Letter to UT Systems from Dr. Wood 02/18/2005 – 1 page
Request for Physical Therapy, Evaluate and Treat 02/18/05 – 1 page
Work Status Report 02/18/2005 – 1 page
Copy of check to Sugar Land Surgical Hospital LLP from The University of Texas at Austin
02/22/2005 – 1 page
Copy of check stub 02/22/2005 – 1 page
Letter to UT Systems from Dr. Wood 02/25/2005 – 1 page
Letter to UT Systems from Dr. Wood 03/18/2005 – 1 page
Letter to UT Systems from Dr. Wood 03/18/2005 – 1 page
Work Status Report 03/18/2005 – 1 page
Order for Impairment Rating 03/18/2005 – 1 page
Insurance Information – 1 page
Letter to UT Systems from Sugar Land Surgical Hospital 03/22/2005 – 1 page
Treating Physician Impairment Evaluation 03/29/2005 – 11 pages
Patient Demographic Sheet 03/29/2005 – 1 page
Work Status Report 03/29/2005 – 1 page
Letter to University of Texas Medical Branch from the office of Janis Wells, PT 04/15/2005 – 1 page

Letter to UT Systems from Dr. Wood 06/24/2005 – 1 page
Work Status Report 06/24/2005 – 1 page
Letter to UT Systems from Dr. Wood 11/18/2005 – 1 page
Work Status Report 11/18/2005 – 1 page
Letter to UT Systems from Joanne Wisdom, DC 02/01/2006 – 1 page
Work Status Report 02/16/2006 – 1 page
Letter to UT Systems from Dr. Wood 06/29/2006 – 2 pages
Work Status Report 06/29/2006 – 1 page
Email correspondence re: Preauth 07/10/2006 – 1 page
Pre-authorization Report 07/11/2006 – 1 page
Pre-authorization Report 07/12/2006 – 1 page
Letter to University of Texas System from MBMS, Inc 08/10/2006 – 1 page
Pre-authorization Report 08/10/2006 – 1 page
MRI Cervical Spine 07/17/2006 – 2 pages
Letter to UT Systems from Dr. Wood 08/01/2006 – 2 pages
Work Status Report 08/01/2006 – 1 page
Letter to University of Texas System from MBMS, Inc 08/10/2006 – 2 pages
Letter to UT Systems from Dr. Wood 08/25/2006 – 2 pages
Work Status Report 08/25/2006 – 1 page
Medical Records, Marvin C. Chang, MD 09/14/2006, 10/05/2006, 10/26/2006, 11/22/2006– 6 pages
Letter to UT Systems from Dr. Wood 09/22/2006 – 2 pages
Work Status Report 09/22/2006 – 1 page
Pre-authorization Report 10/02/2006 – 1 page
Review, J. Keith Preston, MD – 1 page
Request for Stamp ID & Sequence Number – 1 page
Letter to University of Texas System from MBMS, Inc 10/02/2006 – 2 pages
Email correspondence re: Preauth 10/19/2006 – 1 page
Addendum or Follow Up Preauthorization Report 10/19/2006 – 1 page
Letter to University of Texas System from MBMS, Inc 10/19/2006 – 2 pages
Preauthorization/Precert Request – 1 page
Work Status Report – 1 page

Records from Treating Provider:

All duplicates of Records from Respondent

PATIENT CLINICAL HISTORY [SUMMARY]

The patient is a 44 year-old female who is reported to have sustained multiple injuries on _____. On

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this date the patient is reported to have sustained an injury to the right shoulder as the result of lifting a patient that weighed 500 pounds. The available record indicates that the patient was referred to Dr. Bruce Miller on 06/02/2004. At this time the patient denies any paresthesias or weakness involving either upper extremity. Physical examination of the right upper extremity reveals here is no sensory deficit in the radial, ulnar, and median nerves. Upper extremity motor strength is rated as 5/5. There is limited active range of motion of the right shoulder secondary to pain. Forward flexion is limited to 90 degrees, abduction is 60 degrees, internal rotation is limited to L5, and external rotation is full. There is pain and weakness with resisted external rotation. Dr. Miller opines the patient has right shoulder pain with a possible rotator cuff tear.

The patient was referred for MRI of the right shoulder on 06/10/2004. This study indicates degenerative tendinosis in the distal supraspinatous tendon without MRI evidence of a full thickness tear. Mild subacromial and subdeltoid bursitis and postoperative changes without evidence of recurrent impingement.

When seen in follow-up on 06/21/2004 the patient was recommended to undergo conservative care consisting of physical therapy. The patient was seen in follow-up on 07/07/2004. At this time she reports improving right shoulder pain and it is noted that the patient has cervical pain which has worsened. She reports more muscle spasm which extends into the neck. She denies any numbness or tingling in either upper extremity. On physical examination the patient is neurologically intact. The patient's shoulder range of motion is improved from the previous examination. She continues to have weakness with a mild impingement sign. Examination of the neck reveals right sided paraspinal muscular spasm and tenderness to deep palpation. She has limited lateral rotation secondary to right sided pain. The patient's diagnosis is amended to include a cervical strain. The patient is recommended to undergo a cervical therapy program.

The patient was seen in follow-up on 08/07/2004. At this time she reports continued cervical pain. On examination the patient is reported to have a reduced right C7 reflex. As a result, Dr. Miller opines the patient may have a cervical radiculopathy and recommends an MRI of the cervical spine.

An MRI of the cervical spine was performed on 09/01/2004. This study indicated severe canal stenosis at C5/6 with moderate compression of the cord. There is a concentric osteophyte disc and uncovertebral spurring which contribute to severe bilateral foraminal compromise. AT the C6/7 level there is slight elevation of the posterior longitudinal ligament and prominence of the basivertebral plexus mildly narrow the canal at C4/5 and C6/7 and minimal foraminal narrowing is noted proximally.

The patient was referred to Dr. Jeffrey Woods on 09/16/2004. At this time the patient reports continued cervical pain with radiation into the right upper extremity. She reports intermittent

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numbness and tingling in all finger of the right hand. On physical examination the patient is 5'2" and weighs 195 pounds. Neurologic exam indicates intact sensation and full motor strength in the upper extremities bilaterally. Cervical films were reviewed and indicated evidence of disc space narrowing. The cervical MRI was reviewed which indicated stenosis at C5/6. The patient is diagnosed with a cervical radiculopathy and recommends continued conservative care. The patient was referred for an EMG/NCV study on 10/19/2004. This study reports evidence of a right C5/6 radiculopathy with no evidence of acute denervation. The patient was eventually taken to surgery on 12/02/2004. At this time Dr. Wood performed an ACDF at C5/6.

Postoperatively the patient reported some resolution of her symptoms but continues to have trapezial pain. The patient continued to improve post-operatively and requested to return to work. Dr. Wood recommends continued physical therapy. The patient was eventually placed at clinical maximum medical improvement as of 03/29/2005. At this time she was assessed with a 9% whole person impairment.

The record indicates the patient has periodic exacerbations and was treated symptomatically with oral steroids. The patient had a more severe exacerbation in 06/2006 and was referred for repeat imaging. A cervical MRI performed on 07/17/2006 indicates a right posterolateral disc herniation at C4/5 that results in compression of the right C5 nerve root sheath and probable nerve root compression. Uncovertebral and posterior hypertrophic changes narrow the right C7 foramen.

The patient was seen in follow-up on 08/01/2006. At this time Dr. Wood recommends continued conservative care including interventional procedures. The patient was recommended to have a cervical epidural steroid injection and was referred to Dr. Marvin Chang on 09/14/2006. Dr. Chang recommends against CESI given the patient's history of diabetes. Dr. Woods subsequently requested to perform an ACDF at C4/5.

ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS AND CONCLUSIONS USED TO SUPPORT THE DECISION

The request for fusion is medically necessary. The request for disc replacement is not medically necessary.

The patient has clinical evidence of disc herniation above the level of her previous fusion. Adjacent level disease is known and well documented sequelae of fusion procedures. The patient is a Type II diabetic and corticosteroid injections are relatively contraindicated. The Official Disability Guidelines report "Recommended as an option in combination with anterior cervical discectomy for approved indications, although current evidence is conflicting about the benefit of fusion in general. Evidence is also conflicting as to whether autograft or allograft is preferable and/or what specific benefits are

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provided with fixation devices. Many patients have been found to have excellent outcomes while undergoing simple discectomy alone (for one- to two-level procedures), and have also been found to go on to develop spontaneous fusion after an anterior discectomy. (Bertalanffy, 1988) (Savolainen, 1998) (Donaldson, 2002) (Rosenorn, 1983) Cervical fusion for degenerative disease resulting in axial neck pain and no radiculopathy remains controversial and conservative therapy remains the choice if there is no evidence of instability. (Bambakidis, 2005) Conservative anterior cervical fusion techniques appear to be equally effective compared to techniques using allografts, plates or cages. (Savolainen, 1998) (Dowd, 1999) (Colorado, 2001) (Fouyas-Cochrane, 2002) (Goffin, 2003)".

A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE DECISION

The Official Disability Guidelines, 11th edition, The Work Loss Data Institute. Accessed: 01/02/2007.

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 200530: S2-S6.

cc: Requestor; Respondent