



Medical Review Institute of America, Inc.

America's External Review Network

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](mailto:IRODecisions@tdi.state.tx.us)

Injured Employee:  
SENT VIA MAIL

Provider:  
EAST TEXAS CHIROPRACTIC  
R KEITH CALDA, DC  
150 WEST GIBSON  
JASPER, TX 75951  
FAX: 409-384-7779  
PHONE: 409-384-7776  
SENT VIA FAX

Carrier:  
DEEP EAST TEXAS SELF INSURANCE  
KEVIN MCGILLICUDDY  
FAX: 512-320-9967  
PHONE: 512-320-9950  
SENT VIA FAX

February 2, 2007

RE: IRO Case #: M2-07-0639-01

Name: \_\_\_

Coverage Type: Workers' Compensation Health Care (Non-network)

Type of Review: prospective

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

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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 a Chiropractor. 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 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 2/2/07.

#### 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: Laura S 520  
Case Fulfillment Specialist

DATE OF REVIEW: February 2, 2007

IRO Case #: M2-07-0639-01

**Description of the services in dispute:**

Preauthorization request – Physical therapy 3 times per week for 4 weeks, to include 3 units of therapeutic exercises (#97110), 2 units of myofascial release (manual therapy technique as #97140), unattended electrical stimulation (#G0283), and ultrasound (#970035).

**A description of the qualifications for each physician or other health care provider who reviewed the decision**

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

**Review Outcome**

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

Overtured

**Provide a description of the review outcome that clearly states whether or not medical necessity exists for each of the health care services in dispute:**

Medical necessity does exist for the services in dispute: Preauthorization request – Physical therapy 3 times per week for 4 weeks, to include 3 units of therapeutic exercises (#97110), 2 units of myofascial release (manual therapy technique as #97140), unattended electrical stimulation (#G0283), and ultrasound (#970035).

**Information provided to the IRO for review**

**Records Received From State:**

Notification of IRO assignment, 1/9/07

Notice of receipt of request for Medical Dispute Resolution, 12/15/06

Medical Dispute Resolution Request/Response form, 12/15/06

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Table of Disputed Services

List of providers

Notice of Preauthorization, 10/6/06

Notice of Preauthorization, 10/20/06

Letter from R. Keith Calda, DC, 10/6/06

Records Received From Provider:

Letter from Sue Tomplait to Medical Review Institute of America, 1/11/07

Information request, 1/9/07

Fax from Jennifer Smith to R. Keith Calda, 1/9/07

Notice of receipt of request for Medical Dispute Resolution, 12/15/06

Letter from Sue Tomplait to Medical Dispute Resolution, 12/13/06

Medical Dispute Resolution Request/Response, undated

List of providers

Table of Disputed Services

Notice of Preauthorization, 10/20/06

Fax from Jennifer Walker to Appeal Preauth x 2, 10/20/06

Appeal letter from R. Keith Calda, DC, 10/19/06

Patient demographics and insurance information, 10/6/06

Musculoskeletal examination, 10/4/06

Office note, 10/4/06

Prescription for physical therapy, 9/13/06

Operative note, 9/12/06

Notice of Preauthorization, 10/6/06

Fax from Jennifer to Preauth x 2, 10/6/06

Letter from R. Keith Calda, DC requesting preauthorization, 10/6/06

Patient demographics and insurance information, 10/6/06

Musculoskeletal examination, 10/4/06

Office note, 10/4/06

Prescription for physical therapy, 9/13/06

Operative note, 9/12/06

Fax from Jennifer Walker to Review Med, x 2, 12/6/06

Notice of preauthorization, 10/20/06

Patient demographics and insurance information, 12/11/06

Appeal letter from R. Keith Calda, DC, 12/8/06

Letter from Uday V. Doctor, MD to Keith Calda, MD, 11/4/06

Request for Production of Documents, 1/23/07

Request for Payment of Independent Review Organization Fee, 1/23/07

Email from Jennifer Smith to David Hansen, 1/19/07

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Records Received From Insurance:

Medical Record Review, 1/7/07  
Office note, 11/1/06  
Office note, 11/13/06  
Office note, 11/6/06  
Faxed preauthorization request from Review Med, 10/25/06  
Notice of Preauthorization, 10/20/06  
Notice of Preauthorization, 10/6/06  
Office note, 10/4/06  
Musculoskeletal examination, 10/4/06  
Operative note, 9/12/06  
Notice of preauthorization, 8/22/06  
Lumbar spine follow up note, 8/15/06  
Office note, 7/21/06  
TWCC-69 Report of Medical Evaluation, 7/24/06  
Letter to Dr. Calda, 3/25/06  
RT Documentation Med Images, 12/2/05  
Operative note, 12/2/05  
Pain management operative note/discharge note sheet, 3/13/06  
Pain management history and physical, 12/1/05  
Patient demographics and insurance information, 12/2/05  
RT Documentation Med Images, 12/2/05  
Office note, 12/2/05  
Intraoperative medication order sheet, 12/2/05  
Postoperative physician's orders x 2, 12/2/05  
Progress note, 9/16/05  
Texas Workers' Compensation Work Status Report, 8/25/05  
East Texas Chiropractic SOAP notes, 8/17/05  
Texas Workers' Compensation Work Status Report, 7/25/05  
Texas Workers' Compensation Work Status Report, 6/24/05  
Anesthesia Record, 6/6/05  
Operative Note, 6/6/05  
RT Documentation Med Images, 6/6/05  
Texas Workers' Compensation Work Status Report, 5/24/05  
History and Physical, 5/17/05  
Texas Workers' Compensation Work Status Report, 4/24/05  
East Texas Chiropractic SOAP notes, 4/1/05  
Texas Workers' Compensation Work Status Report, 4/24/05  
Office note, 4/25/05

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East Texas Chiropractic SOAP notes, 4/25/05  
Office note, 4/20/05  
East Texas Chiropractic SOAP notes, 4/20/05  
East Texas Chiropractic SOAP notes, 1/3/05  
East Texas Chiropractic SOAP notes, 12/29/04  
East Texas Chiropractic SOAP notes, 12/27/04  
East Texas Chiropractic SOAP notes, 12/22/04  
Texas Workers' Compensation Work Status Report, 12/20/04  
East Texas Chiropractic SOAP notes, 12/20/04  
Office note, 4/18/05  
East Texas Chiropractic SOAP notes, 4/18/05  
MRI (magnetic resonance imaging) of the lumbar spine without contrast, 4/14/05  
East Texas Chiropractic SOAP notes, 4/13/05  
East Texas Chiropractic SOAP notes, 4/11/05  
East Texas Chiropractic SOAP notes, 4/6/05  
East Texas Chiropractic SOAP notes, 4/4/05  
East Texas Chiropractic SOAP notes, 4/1/05  
Texas Workers' Compensation Work Status Report, 3/24/05  
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Texas Workers' Compensation Work Status Report, 2/24/05  
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East Texas Chiropractic SOAP notes, 1/31/05  
East Texas Chiropractic SOAP notes, 1/19/05  
East Texas Chiropractic SOAP notes, 1/17/05  
Texas Workers' Compensation Work Status Report, 1/24/05  
East Texas Chiropractic SOAP notes, 1/12/05  
East Texas Chiropractic SOAP notes, 1/10/05  
East Texas Chiropractic SOAP notes, 1/5/05  
East Texas Chiropractic SOAP notes, 12/17/04  
East Texas Chiropractic SOAP notes, 12/14/04  
East Texas Chiropractic SOAP notes, 12/13/04  
East Texas Chiropractic SOAP notes, 12/7/04  
East Texas Chiropractic SOAP notes, 12/3/04  
East Texas Chiropractic SOAP notes, 12/1/04  
East Texas Chiropractic SOAP notes, 11/29/04  
East Texas Chiropractic SOAP notes, 11/23/04  
East Texas Chiropractic SOAP notes, 11/19/04  
East Texas Chiropractic SOAP notes, 11/18/04  
Examination note, 11/17/04

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Radiology report, cervical, thoracic and lumbar spine series, 1/18/04

Texas Workers' Compensation Work Status Report, 11/17/04

Exercise list

Copy of a check, 1/25/07

### **Patient clinical history [summary]**

The patient is a 46-year-old female who, on \_\_\_\_, fell while attempting to move a dolly loaded with boxes. The claimant further related that the load shifted, fell from the dolly, and caused her to fall rearward, landing hard onto her buttocks. She presented to this treating doctor of chiropractic on 11/17/04 complaining of sharp, achy lower back pain with radiation of pain into her right posterior leg, and dull, achy neck pain that radiated into her bilateral shoulders. She then began receiving chiropractic treatment for the next several months, and in April of 2005, an MRI (magnetic resonance imaging) was ordered that revealed a 4-5 mm posterocentral protrusion at L4-5 with resultant mild spinal stenosis, and a 3 mm right lateral protrusion at L5-S1 with minimal indentation of the thecal sac.

The claimant was then referred to a pain management orthopedic specialist who thought that a regimen of epidural steroid injections would be beneficial. The patient received her first ESI (epidural steroid injection) on 6/6/05, which reportedly achieved good results, then a second lumbar ESI on 12/2/05, which resulted in an approximate 90% reduction in her pain. On 3/25/06, on referral from her treating doctor of chiropractic, an impairment rating was performed and the patient was deemed at maximum medical improvement and awarded a 5% whole-person impairment.

Approximately four months later, the patient returned to the treating doctor of chiropractic complaining of a flare-up of her pain. She was referred to the same pain management specialist who performed another ESI on 9/12/06

### **Analysis and explanation of the decision include clinical basis, findings and conclusions used to support the decision.**

The requested physical therapy, 3 times per week for 4 weeks, to include 3 units of therapeutic exercises (#97110), 2 units of myofascial release (manual therapy technique as #97140), unattended electrical stimulation (#G0283), and ultrasound (#97035), is medically necessary. In this case, the medical records adequately documented that a compensable injury to this claimant's lower back and neck occurred, that the pain management specialist had prescribed the particular protocol, and that previous epidural steroid injections, followed by post-injection physical therapy and rehabilitation, were effective in treating her injury and returning the claimant to her pre-injury employment. Therefore, when a documented flare-up occurred, it was supported as medically necessary to recommend the same therapy protocol that had previously rendered positive results

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because it was reasonable to assume that the same treatment would once again fulfill the statutory requirements for medical necessity, that the patient would obtain relief, promotion of recovery would be accomplished, and the employee's ability to retain her employment would be enhanced.

In addition, the carrier's rationale for denying the requested services, as stated in their 10/11/06 "Notice of Pre-authorization" letter, was that "Dr. Calda <was> not going to adjust the patient." However, upon review of Dr. Calda's 10/6/06 daily note and treatment plan, the record clearly noted, "The patient will also have an adjustment." Furthermore, the TCA Guidelines also state, "repeated use of acute care measures alone generally fosters chronicity, physician dependence and over-utilization and the repeated use of passive treatment/care tends to promote physician dependence and chronicity." However, in this case, Dr. Calda's request included active as well as passive recommendations for treatment, rendering this argument baseless.

**A description and the source of the screening criteria or other clinical basis used to make the decision:**

Texas Labor Code 408.021

Quality Assurance Guidelines, Texas Chiropractic Association