

SOUTHWEST MEDICAL EXAMINATION SERVICES, INC.
7502 GREENVILLE AVENUE
SUITE 600
DALLAS, TEXAS 75231
(214) 750-6110
FAX (214) 750-5825

January 18, 2007

Re: Medical Dispute Resolution
MDR# M2-07-0643-01
DWC# _____
Injured Employee: _____
DOI: _____
SS#: _____
IRO Certificate #: IRO5313
Name of Requestor: Kenneth Berliner, M.D.
Name of Provider: Kenneth Berliner, M.D.
Reviewed by: Orthopedic Surgeon

TRANSMITTED VIA FAX TO:

Medical Dispute Resolution
TDI-Division of Workers' Compensation
FAX: 512-804-4868

Dear Dr. Berliner:

In accordance with the requirements for TDI-Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC has assigned your case to Southwest Medical Examination Services, Inc. (SMES) for an independent review. In performing this review, SMES reviewed relevant medical records, any documents provided by the parties referenced above, and documentation and written information submitted in support of the dispute.

I am an officer of Southwest Medical Examination Services, Inc. and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is certified in the area of orthopedic surgery, and is currently listed on the DWC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

Medical records from the Requestor/Treating Doctor include:

- Memorial Hermann Hospital, 10/20/04, 12/21/04
- Memorial Bone & Joint Clinic, 10/28/04
- Lone Star Orthopedics, 11/24/04, 12/02/04, 01/05/05, 03/16/05, 04/12/05, 05/25/05, 07/06/05, 08/03/05, 09/07/05, 10/05/05, 11/16/05, 09/26/06, 12/01/06
- Marco Ochoa, M.D., 05/11/05, 11/10/05
- CorVel, 10/26/06, 11/27/06
- Renaissance Hospital, 06/23/05
- Texas Orthopaedic and Aquatic Therapy Institute, 05/13/05, 11/09/05, 11/10/05
- Allied Therapy and Diagnostics, 08/24/06, 09/26/06
- Gulf Coast Diagnostics, 12/09/04, 03/30/05
- Harris County Hospital District, 08/11/05

Medical records from the Respondent include:

- Employer Claims Adjustment Services, 12/26/06, 01/05/07
- Memorial Hermann Hospital, 10/20/04
- Lone Star Orthopedics, 11/22/05, 02/23/06, 05/23/06, 08/24/06, 09/26/06
- CorVel, 10/26/06, 11/27/06
- Texas Orthopaedic & Aquatic Therapy Institute, 11/18/05
- Gulf Coast Diagnostics, 12/09/04

Clinical History:

The patient was a 49-year-old male when he fell off of a scaffold at work, landing on his left side and shoulder causing a fracture dislocation of the left upper humerus.

Initial evaluation notes are present from Memorial Hermann Hospital in Houston, Texas, noting an individual with the above injury without loss of consciousness, no neck pain, and no description of neuromuscular sensory deficit in the upper or lower extremities. Incidental findings were some mild bruising to the left knee and left elbow. Open reduction and internal fixation followed.

A CT scan of the cervical spine was negative and follow up shortly after was with Kenneth Berliner, M.D., at Lone Star Orthopedics, with these office notes from Dr. Berliner beginning

September 26, 2006, at which time there are additional complaints of pain in his neck and lower back. In regard to his neck complaints, a CT scan of the neck on an emergency basis at Hermann Hospital was negative for acute change, and an MRI study cervical spine performed shortly thereafter under Dr. Berliner's direction, dated December 9, 2004, was essentially normal.

At this time, there is a letter of medical necessity for cervical facet injections from Dr. Berliner, an orthopedic surgeon and disability evaluating physician, stating that the patient has pain with cervical extension, as well as tenderness over his posterior neck and cervical facets. There is no description in Dr. Berliner's notes of any specific radiculopathy findings of the upper extremities.

As of September 26, 2006, Dr. Berliner's note states that the patient was returning to light work capacity and his medications were being weaned. Dr. Berliner's note suggests that the patient was quite functional.

Disputed Services:

Cervical facet injections C3/4-C6/7

Decision:

It is my opinion that cervical facet injections in this scenario are not standard of care or causally related. I disagree with Dr. Berliner's recommendation in this regard.

Rationale:

In approximately 2003, the American Academy of Orthopedic Surgeons and the North American Spine Society performed an extensive committee review of what works and what does not seem to work in the treatment of spinal conditions and this extensive committee research of the literature was published in Orthopedic Knowledge Update. In addition, ODG Guidelines specifically state that facet injections do not appear to be effective in the treatment of spinal injuries and degenerative conditions.

In this case, the patient had no pain in his neck and no description of abnormal range of motion with the initial injury evaluation at Memorial Hermann Hospital. Because the nature of the trauma was that of a severe impact on the left shoulder and side of the body, a CT of the cervical spine was performed in the course of evaluating acute severe trauma in an emergency room. This study was negative. A follow up MRI of the cervical spine in December of 2004 was negative. Periodic evaluations and notes reviewed do not note any specific structural change having occurred in the neck as a result of this work injury in terms of radiculopathy or specific neuromuscular sensory deficit.

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Therefore, in terms of the above – Orthopedic Knowledge Update publication regarding North American Spine Society and American Academy of Orthopedic Surgeons, as well as ODG Guidelines, as well as the clinical picture of this injured worker, the above opinion and decision is provided.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician with Southwest Medical Examination Services, Inc. is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

If you are unhappy with this decision, you may seek judicial review of the decision. (Texas Labor Code, 413.031k) To seek such an appeal, a petition for judicial review must be filed with the Travis County District Clerk's Office in Austin, Texas not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. (Subchapter G, Chapter 2001, of the Texas Government Code) Neither the Department of Insurance nor the Division of Workers' Compensation is considered a party to the medical dispute in a judicial review. You may wish to consult with an attorney of your choice to assist you in filing an appeal. The Division of Workers' Compensation cannot assist or provide legal advice to you in this matter."

In accordance with Commission Rule 102.4(b), I hereby certify that a copy of this Independent Review Organization (IRO) decision was sent to the carrier and the requestor and claimant via facsimile or US Postal Service from the office of the IRO on this 18th day of January 2007.

Sincerely,

John Turner
Southwest Medical Examination Services, Inc.