



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

Injured Employee

Sent via MAIL

Provider

LARRY M. KJELDGAARD, DO

809 West Harwood Rd Ste 101

Hurst TX 76054

Sent via FAX

FAX # 817-283-5283

Respondent

OLD REPUBLIC INSURANCE CO.

Sent via FAX

FAX # 877-538-2248

February 27, 2007

RE: IRO Case #:M2-07-0771-01 /

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 for independent review in accordance with the Texas Insurance Code, the Texas Labor Code and applicable regulations.

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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. 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 February 27, 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: Raquel G ext 518
Case Fulfillment Specialist

DATE OF REVIEW: February 27, 2007

IRO Case #: M2-07-0771-01

Description of the services in dispute:

Lumbar Discogram L1-2, L2-3 for control levels, SMCL first Discogram was positive at L3-4, L4-5, and L5-S1.

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:

Upheld.

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.

The requested discogram at L1-2 and L2-3 for control levels is not medically necessary at this time.

Information provided to the IRO for review

Records from the State:

Notification of IRO assignment dated 1/30/07 7 pages

Adverse determination dated 10/27/06 1 page

Records received from the respondent:

Follow up consult dated 8/19/06 2 pages

Referral dated 10/17/06 2 pages

Patient demographic information 1 page

Chart note dated 10/17/06 1 page

Follow up consult note dated 10/17/06 2 pages

Preauthorization request dated 10/24/06 7 pages

Denial letter dated 11/28/06 1 page

Preauthorization request dated 11/28/06 1 page

Patient clinical history [summary]

The patient is a 40-year-old female whose date injury is reported as _____. The patient was employed with _____ and _____. The information begins with a note from Dr. Kjeldgaard dated 09/19/06 and states that the patient has undergone discography as well as plain radiographs which show the patient has a moderate levoscoliosis and L5-S1 disc space narrowing and right L4 and left L5-S1 facet irregularities. The physical examination at that time noted the patient was in no acute distress, and her spinal extension was limited to approximately 0-5 degrees with increasing pain in the right side of the lumbar spine and right posterior and posterolateral gluteal areas. Left and right side bending was noted to be 0-15 degrees. The patient was noted to be able to bring her fingertips to approximately the level of her knees. There was no evidence of gross asymmetry of the patellar or Achilles reflexes on testing. There was mild weakness noted 4+/5 with the right ankle dorsiflexors and the right EHL. The discogram report is not submitted for review; however, Dr. Kjeldgaard's note indicates that the discogram showed disruption of all 3 disc spaces with production of concordant pain, disruption and pain greatest at L5-S1 and somewhat lesser but still very positive at L3-4 and L4-5. The plan at that time was for a discectomy and interbody fusion at L3-4, L4-5 and L5-S1 with pedicle screws and rods. The next note is a preauthorization request for lumbar discogram from diagnostic neuro imaging. This note indicates that in addition to the recommendation for surgery, Dr. Kjeldgaard also recommends the patient undergo a second opinion. The preauthorization request goes on to say that the patient saw Dr. Guyer on 10/03/06, and Dr. Guyer made note of degenerative scoliosis and internal disruption at L3-4, L4-5 and L5-S1. Dr. Guyer noted that there was concern because the discogram did not include L2-3 level to note whether the L2-3 level was normal and due to the lack of a control level. Dr. Guyer goes on to

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indicate that she should try to complete a work hardening program and continue with epidural steroid injections given that she had a multilevel positive discogram. Further, the note indicates Dr. Kjeldgaard has requested a second discogram indicating that a discogram should be performed at L2-3, and if L2-3 is negative then L1-2 should also be performed. On 10/17/06 the patient was seen by Dr. Kjeldgaard in follow up consultation. The note indicates that he had the opportunity to read Dr. Guyer's report and noted, "I agree with that." On physical examination on this date the patient is noted to be in no acute distress once again. Sitting root test generates low back pain on end range of motion of straight leg raise testing. She was noted to have increased pain in the right L5 nerve root distribution with right lateral thigh, right lower leg, and right foot since the discogram. Prior to that it was predominant back pain and more left sided pain. The impression at this time was chronic low back pain since the date of injury with degenerative scoliosis, internal disc disruption at L3-4, L4-5 and L5-S1 with significant facet degenerative changes seen at the right L4-5 and left L5-S1. His plan at that time was "as much as Gaila does not like the thought of having discogram done again she understands the importance of having it done at L2-3 to prove it is positive or negative. If it is negative we are to stop there. If it is positive we need to go on one level cephalad to the L1-2 level to document a negative control level and validate the test." The reason for referral is medical necessity for lumbar discogram at L1-2 and L2-3 for control level.

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

The requested discogram at L1-2 and L2-3 for control levels is not medically necessary at this time. Second opinion surgeon did not recommend directly undergoing discogram to prove the patient is a surgical candidate. The patient had obvious prior symptoms in the lower lumbar region and as such did not have a positive control level at L3-4.

The patient is now not blinded with regard to her discogram and as such a subjective report could be elicited from the patient. The patient has evidence of facetogenic pain which has not been noted in the clinic notes by Dr. Kjeldgaard or Dr. Guyer. The patient has 0-5 degrees of extension and has pain radiating into the buttocks. It may be suggested that in addition to work conditioning, the patient obtain not epidural injections, but facet injections, as this may be a medial branch mediated pain. This patient does not have any evidence of nerve root tension; however, does have evidence of a possible facet mediated pain. Based on the documentation provided, objective and subjective findings, this request is not medically necessary.

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

1. ACOEM Chapter 12 p. 304

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2. The Official Disability Guidelines
3. Carragee EJ, Lincoln T, Parmar VS, Alamin T. A gold standard evaluation of the "discogenic pain" diagnosis as determined by provocative discography. Spine. 2006 Aug 15;31(18): 2115-23.
4. Resnick DK, Malone DG, Ryken TC, Guidelines for the Use of Discography for the Diagnosis of Painful Degenerative Lumbar Disc Disease, from Neurosurgical Focus, Posted 10/30/2002

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