

March 25, 2005

TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-1017-01

CLIENT TRACKING NUMBER: M2-05-1017-01-5278

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Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above-mentioned case to MRIOA for independent review in accordance with TWCC Rule 133, which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

**Records Received:**

FROM STATE:

Notification of IRO Assignment dated 3/10/05 1 page

Texas Workers Compensation Commission review request dated 3/10/05 1 page

Medical Dispute Resolution Request Response 1 page

List of treating providers 1 page

Table of Disputed Services 1 page

Request for services from IMO dated 12/28/04 1 page

Request for services from IMO dated 1/24/05 1 page

Reconsideration process from IMO 2 pages

(continued)

FROM PROVIDER:

Clinic notes dated 10/17/03 2 pages  
Therapy notes dated 10/21/03 3 pages  
Initial Report from Life Chiropractic dated 10/27/03 2 pages  
Life Chiropractic Questionnaire dated 10/27/03 2 pages (double sided)  
Therapeutic exercises dated 10/28/03 1 page  
Life Chiropractic Questionnaire dated 10/28/03 2 pages (double sided)  
Therapeutic exercises dated 10/29/03 1 page  
Life Chiropractic Questionnaire dated 10/29/03 2 pages (double sided)  
Therapeutic exercised dated 10/30/03 1 page  
Life Chiropractic Questionnaire dated 10/30/03 2 pages (double sided)  
Therapeutic exercises dated 10/31/03 1 page  
Life Chiropractic Questionnaire dated 10/31/03 2 pages (double sided)  
Physical Capacity evaluation dated 10/3/03 1 page  
Range of motion study dated 11/3/03 1 page  
Lumbar range of motion testing dated 11/3/03 1 page  
Knee range of motion testing dated 11/3/03 1 page  
Lift strength evaluation dated 11/3/03 2 pages  
Comparative muscle testing dated 11/3/03 3 pages  
Oswestry low back questionnaire test results dated 11/3/03 1 page  
Life Chiropractic Questionnaire dated 11/3/03 2 pages (double sided)  
Therapeutic exercises dated 11/4/03 1 page  
Life Chiropractic Questionnaire dated 11/4/03 2 pages (double sided)  
Therapeutic exercises dated 11/6/03 1 page  
Life Chiropractic Questionnaire dated 11/6/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 11/7/03 2 pages (double sided)  
Therapeutic exercises dated 11/7/03 1 page  
Therapeutic exercises dated 11/10/03 1 page  
Life Chiropractic Questionnaire dated 11/11/03 2 pages  
Aquatic program progress report dated 11/11/03 2 pages (double sided)  
Aquatic program progress report dated 11/12/03 2 pages (double sided)  
Aquatic program progress report dated 11/14/03 2 pages (double sided)  
Aquatic program progress report dated 11/17/03 2 pages (double sided)  
Aquatic program progress report dated 11/18/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 11/10/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 11/24/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 12/1/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 12/2/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 12/4/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 12/8/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 12/18/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 12/19/03 2 pages (double sided)  
MRI report from Open MRI dated 12/22/03 1 page  
Life Chiropractic Questionnaire dated 12/23/03 2 pages (double sided)

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Life Chiropractic Questionnaire dated 12/29/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 12/30/03 2 pages (double sided)  
Life Chiropractic Questionnaire dated 1/5/04 2 pages (double sided)  
Therapeutic exercises dated 1/15/04 1 page  
Nerve Conduction study report from El Paso Diagnostic dated 1/6/04 2 pages  
Life Chiropractic Questionnaire dated 1/6/04 2 pages (double sided)  
Ultrasound report dated 1/8/04 1 page  
Therapeutic exercises dated 1/8/04 2 pages  
Life Chiropractic Questionnaire dated 1/8/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 1/9/04 2 pages (double sided)  
Therapeutic exercises dated 1/14/04 1 page  
Life Chiropractic Questionnaire dated 1/14/04 2 pages (double sided)  
Therapeutic exercises dated 1/16/04 1 page  
Life Chiropractic Questionnaire dated 1/16/04 2 pages (double sided)  
Therapeutic exercises dated 1/20/04 1 page  
Life Chiropractic Questionnaire dated 1/20/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 1/21/04 2 pages (double sided)  
Physical capacity evaluation dated 1/21/04 1 page  
Range of motion study dated 1/21/04 3 pages  
Lift strength evaluation dated 1/21/04 2 pages  
Comparative muscle testing dated 1/21/04 3 pages  
Oswestry low back questionnaire test results dated 1/21/04 1 page  
Progress report dated 1/21/04 2 pages  
Therapeutic exercises dated 1/23/04 1 page  
Life Chiropractic Questionnaire dated 1/23/04 2 pages (double sided)  
Therapeutic exercises dated 1/27/04 1 page  
Life Chiropractic Questionnaire dated 1/27/04 2 pages (double sided)  
Therapeutic exercises dated 1/30/04 1 page  
Life Chiropractic Questionnaire dated 1/30/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 2/3/04 2 pages (double sided)  
Functional Assessment report dated 2/5/04 13 pages  
Life Chiropractic Questionnaire dated 2/5/04 2 pages (double sided)  
Therapeutic exercises dated 2/5/04 1 page  
Therapeutic exercises dated 2/9/04 1 page  
Life Chiropractic Questionnaire dated 2/9/04 2 pages (double sided)  
Therapeutic exercises dated 2/11/04 1 page  
Life Chiropractic Questionnaire dated 2/11/04 2 pages (double sided)  
Therapeutic exercises dated 2/16/04 1 page  
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Life Chiropractic Questionnaire dated 2/16/04 2 pages (double sided)  
Therapeutic exercises dated 2/18/04 1 page  
Life Chiropractic Questionnaire dated 2/18/04 2 pages (double sided)  
Therapeutic exercises dated 2/20/04 1 page  
Life Chiropractic Questionnaire dated 2/20/04 2 pages (double sided)  
Therapeutic exercises dated 2/25/04 1 page  
Life Chiropractic Questionnaire dated 2/25/04 2 pages (double sided)  
Therapeutic exercises dated 2/26/04 1 page  
Life Chiropractic Questionnaire dated 2/26/04 2 pages (double sided)  
Therapeutic exercises dated 3/1/04 1 page  
Life Chiropractic Questionnaire dated 3/1/04 2 pages (double sided)  
Therapeutic exercises dated 3/4/04 1 page  
Life Chiropractic Questionnaire dated 3/4/04 2 pages (double sided)  
Therapeutic exercises dated 3/8/04 1 page  
Life Chiropractic Questionnaire dated 3/8/04 2 pages (double sided)  
Therapeutic exercises dated 3/10/04 1 page  
Life Chiropractic Questionnaire dated 3/10/04 2 pages (double sided)  
Therapeutic exercises dated 3/12/04 1 page  
Life Chiropractic Questionnaire dated 3/12/04 2 pages (double sided)  
Therapeutic exercises dated 3/15/04 1 page  
Life Chiropractic Questionnaire dated 3/15/04 2 pages (double sided)  
Therapeutic exercises dated 3/17/04 1 page  
Life Chiropractic Questionnaire dated 3/17/04 2 pages (double sided)  
Therapeutic exercises dated 3/22/04 1 page  
Life Chiropractic Questionnaire dated 3/22/04 2 pages (double sided)  
Therapeutic exercises dated 3/24/04 1 page  
Life Chiropractic Questionnaire dated 3/24/04 2 pages (double sided)  
Therapeutic exercises dated 3/26/04 1 page  
Life Chiropractic Questionnaire dated 3/26/04 2 pages (double sided)  
Therapeutic exercises dated 3/29/04 1 page  
Life Chiropractic Questionnaire dated 3/29/04 2 pages (double sided)  
Therapeutic exercises dated 4/5/04 1 page  
Life Chiropractic Questionnaire dated 4/5/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 4/7/04 2 pages (double sided)  
Therapeutic exercises dated 4/7/04 1 page  
Life Chiropractic Questionnaire dated 4/12/04 2 pages (double sided)

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Therapeutic exercises dated 4/12/04 1 page  
Life Chiropractic Questionnaire dated 4/15/04 2 pages (double sided)  
Therapeutic exercises dated 4/15/04 1 page  
Life Chiropractic Questionnaire dated 4/19/04 2 pages (double sided)  
Therapeutic exercises dated 4/19/04 1 page  
Life Chiropractic Questionnaire dated 4/21/04 2 pages (double sided)  
Therapeutic exercises dated 4/21/04 1 page  
Life Chiropractic Questionnaire dated 4/26/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 4/29/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 5/3/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 5/7/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 5/10/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 5/12/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 5/17/04 2 pages (double sided)  
Therapeutic exercises dated 5/17/04 1 page  
Functional assessment report dated 5/18/04 13 pages  
Life Chiropractic Questionnaire dated 5/18/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 5/20/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 5/24/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 5/8/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 6/2/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 6/7/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 6/10/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 6/15/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 6/17/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 6/21/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 6/24/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 6/28/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 7/2/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 7/12/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 7/20/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 7/28/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 8/3/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 8/10/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 8/17/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 8/25/04 2 pages (double sided)

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Life Chiropractic Questionnaire dated 8/30/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 9/8/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 9/14/04 2 pages (double sided)  
Functional assessment report dated 9/14/04 13 pages  
Life Chiropractic Questionnaire dated 9/20/04 2 pages (double sided)  
Work conditions/work hardening dated 9/20/04 1 page  
Cary Deiter DC Questionnaire dated 9/20/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 9/30/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 10/5/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 10/12/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 10/22/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 10/26/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 11/22/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 12/8/04 2 pages (double sided)  
Life Chiropractic Questionnaire dated 1/24/05 2 pages (double sided)  
Life Chiropractic Questionnaire dated 2/11/05 2 pages (double sided)  
Life Chiropractic treatment note dated 3/9/05 2 pages (double sided)  
Copy of Check from Workers compensation fund to MRIOA dated 3/14/05 1 page  
Order for payment of independent review organization fee dated 3/24/05 1 page  
Memo to Austin Commission Representative dated 3/23/05 1 page

**Summary of Treatment/Case History:**

On 10/15/03, the patient had a back injury. He has had pain in his back since. There is no neurological deficit in the lower extremities. There is multilevel discogenic pain on discography. The patient sought treatment by a DC.

**Questions for Review:**

1. Service in dispute: Selective Endoscopic Discectomy at L2-3, L4-5 and L5-S1. Please advise.

**Conclusion/Decision to Not Certify:**

1. Service in dispute: Selective Endoscopic Discectomy at L2-3, L4-5 and L5-S1. Please advise.

There have been two denials of the requested procedure. The use of disc excision by any technique has not been validated as a necessary procedure for low back pain. In 200+ pages of records, only 2 of 10/17/03 are by an MD 2 days after the accident indicating a lumbar strain with no neurological deficit and negative SLR. The rest of the notes are by a DC.

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The second denial of the requested procedure of 1/24/05 states: There is no medical information from a second opinion, required medical exam regarding the medical invasive treatment. The methodology of surgery is a subspecialty within spine surgery and the literature is not clear regarding the efficacy and reliability of the form of treatment of back pain. It does not appear that the additional information or literature this request has been submitted with is substantial to override the IRO opinion. There is no appeal from who ever wanted to do the surgery, no reports on MRI, CT, or myelogram even if done. There is no diagnosis given for a 3 level disc procedure, and no literature cited as requested to override the IRO opinion.

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

Lectures of Professor Stanley Biogs at the American Academy of Disability Evaluating Physicians  
Disability Medicine by the American Board of Independent Examiners

**References Used in Support of Decision:**

The Lumbar Spine by Harry Herkowitz, MD  
Gibson-Waddell Studies by Cochran Collaboration

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The specialist providing this review is board certified in Neurosurgery. The reviewer has served as the chief Neurosurgeon at several VA Hospitals throughout the country. The reviewer is a member of the American Medical Association, the American College of Surgeons, the American Paraplegia Society, Congress of Neurological Surgeons and the American Association of Neurosurgeons. The Reviewer has served as an association professor, assistant professor and clinical instructor at the university level. The reviewer also has publishing, presentation and research experience within their specialty. The reviewer has been in active practice for over 20 years.

MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

**YOUR RIGHT TO REQUEST A HEARING**

Either party to the medical dispute may disagree with all or part of this decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be receiving the TWCC chief Clerk of Proceedings within ten (10) days of your receipt of this decision as per 28 Texas Admin. Code 142.5.

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If disputing other prospective medical necessity (preauthorization) decisions, a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within twenty (20) days of your receipt of this decision as per Texas Admin. Code 102.4 (h) or 102.5 (d). A request for hearing should be sent to:

Chief Clerk of Proceedings  
Texas Workers' Compensation Commission  
POB 40669  
Austin, TX 78704-0012

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIOA 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 MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America 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 agrees to hold MRIOA harmless for any and all claims, which may arise as a result of 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.

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cb

Ysleta I.S.D. c/o Cunningham Lindsey