

April 25, 2005

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-1111-01

CLIENT TRACKING NUMBER: M2-05-1111-01/5278

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:

Records Received from the State:

- Notification of IRO Assignment, dated 03/16/05 - 1 page
- Texas Workers' Compensation Commission Form, dated 03/14/05 - 5 pages
- Letter from Zurich Services Corporation Managed Care to ____, dated 02/10/05 - 1 page
- Fax Cover Sheet, dated 01/28/05 - 1 page
- Appeal Information, dated 01/28/05 - 1 page
- Letter from Zurich Services Corporation Managed Care to Walter Piskun, MD, dated 01/25/05 - 1 page

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- Fax Cover Sheet, dated 01/21/05 - 1 page
- Appeal Information, dated 12/03/04 - 1 page

Records Received from the Respondent:

- Letter from Charles Finch to Medical Review Institute of America, dated 03/23/05 - 3 pages
- Letter from Zurich Services Corporation Managed Care to Walter Piskun, MD, dated 01/25/05 - 1 page
- Letter from Zurich Services Corporation Managed Care to ____, dated 02/10/05 - 1 page
- Peer Review, dated 12/29/03 - 4 pages
- Letter from Vicki Clary to Daniela McCauley, dated 10/29/04 - 1 page
- Letter from Dr. Huebner to Zurich, dated 10/29/05 - 1 page
- DEC Evaluation on ____, dated 10/29/04 - 7 pages
- Isometric Strength Assessment, dated 10/29/04 - 6 pages
- Progressive Performance Summary Disability Evaluating Center, undated - 2 pages
- Letter from Scott D. Bouton to Texas Workers' Compensation Commission, dated 03/04/05 - 5 pages

Records Received from the Requestor:

- Second Opinion Letter from Dr. Paullus, dated 03/15/05 - 3 pages
- Chart Notes, dated 01/17/02-11/29/04 - 7 pages

Summary of Treatment/Case History:

By history, the patient is a 61 year-old female with a history of chronic, incapacitating back pain. By history the acute onset of pain was noted after she fell from her teller's stool injuring her right leg and back on _____. MRI of the lumbar spine dated 12/13/99 documented a large disk herniation on the right at L4-5 which impinged on the right L5 nerve root as it enters the lateral recess. The thecal sac was somewhat deformed and the neural foramen narrowed. There was also a far left posterior disk bulge at L3-4 and a far right posterior disk bulge at L5-S1, neither of which impinged on a nerve root. She also had a right L4 hemilaminectomy defect. On 12/21/99 Dr. Piskun performed redo laminectomy of L3-4 and L4-5, redo discectomy on the right at L4-5, foraminotomies on the right L4 and L5 nerve roots. She had evidence during surgery of a disk that had herniated underneath the shoulder of the right L5 nerve root. On 10/12/02, Dr. Piskun again examined the patient. EMG documented a right L5 radiculopathy at that time and Dr. Bullard saw the claimant and put her in a brace. The brace and medications helped her significantly. At that time on exam she had good strength in her upper and lower extremities. She had trace reflexes at the ankles. She continued conservative treatment. On 12/05/00, Bryan Bullard, DPM saw the claimant for continued evaluation of traumatically induced plantar fasciitis with neuritic component. She had 80 to 90% relief with Neurontin 300mg tid. She was also utilizing her night splint. Her Neurontin was increased at that time. On 01/11/01, Dr. Piskun saw the claimant and noted that she was doing well. Her back was not bothering her. On exam she had weakness of the extensor hallucis longus on the right and an absent right ankle jerk. Her motor exam was otherwise normal. There were no significant changes in her complaints or exam on follow-up on 01/17/02. Dr. Piskun again saw the claimant on 01/30/03, given that she began having pain in October. The pain was not so much in the low back, but radiated into the left leg with pain in both lumbosacral iliac areas and down into the hips. MRI was ordered and she was started on Celebrex. The

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MRI dated 02/17/03, documented postoperative changes at L4–5 with mixed signal soft tissue abnormality and non-homogenous enhancement within the right lateral recess that was believed to represent a recurrent disc herniation with prominent peridiscal scarring. It was not believed that the very small disc herniation to the right was putting pressure against nerve root and on 4/7/03; she remained on Celebrex and continued conservative treatment. On 10/9/03, her exam showed reflexes that were slightly hypoactive. Her knee reflexes showed the left ankle jerk at 1 to 2+ and the right ankle jerks were trace positive.

On her visit on 03/15/05 she had continued and progressive radicular pain with collapse and narrowing at L4–5 and L5–S1 on the right. Given the potential that the L4–5 complex was unstable an exploration and fusion was ordered.

Questions for Review:

1. Please address prospective medical necessity of the proposed lumbar exploration/decompression, regarding the above-mentioned injured worker.

Explanation of Findings:

Question 1: Please address prospective medical necessity of the proposed lumbar exploration/decompression, regarding the above-mentioned injured worker.

The proposed surgery is medically necessary. By history, the patient has chronic, incapacitating pain with radiation into her right lower extremity. On her visit on 03/15/05 she had continued and progressive radicular pain with collapse and narrowing at L4–5 and L5–S1 on the right. Given the potential that the L4–5 complex was unstable an exploration and fusion was ordered and is appropriate.

Conclusion/Decision to Certify:

Certify the proposed procedure as medically necessary.

References Used in Support of Decision:

1. Kumar K. Malik S. Demeria D. Treatment of chronic pain with spinal cord stimulation versus alternative therapies: cost-effectiveness analysis. [Clinical Trial. Journal Article] *Neurosurgery*. 51(1):106–15; discussion 115–6, 2002 Jul.
2. Ljubicic Bistrovic I. Ljubicic D. Ekl D. Penezic L. Mocenic D. Stancic MF. Influence of depression on patient's satisfaction with the outcome of microsurgical "key-hole" vs classical discectomy: prospective matched-cohort study. [Journal Article] *Croatian Medical Journal*. 43(6):702–6, 2002 Dec.
3. Richter HP. Kast E. Tomczak R. Besenfelder W. Gaus W. Results of applying ADCON–L gel after lumbar discectomy: the German ADCON–L study. [Clinical Trial. Journal Article. Randomized Controlled Trial] *Journal of Neurosurgery*. 95(2 Suppl):179–89, 2001 Oct.

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4. Barolat G. Spinal cord stimulation for chronic pain management. [Review] [36 refs] [Journal Article. Review. Review Literature] Archives of Medical Research. 31(3):258-62, 2000 May-Jun.
5. Silver J. Aspects of failed back syndrome: role of litigation.[comment]. [Comment. Letter] Spinal Cord. 38(6):386; discussion 387, 2000 Jun.
6. McLean AN. Failed back syndrome.[comment]. [Comment. Letter] Spinal Cord. 38(6):386; discussion 387, 2000 Jun.
7. Wing PC. Aspects of failed back syndrome: role of litigation. [Letter] Spinal Cord. 38(6):387, 2000 Jun.

The physician providing this review is board certified in Neurological Surgery (1997). The reviewer has additional certification from the American Board of Pediatric Neurosurgery (1998) The physician is a member of the American Medical Association, the Congress of Neurological Surgeons, the American Association of Neurological Surgeons, the Society of University Neurosurgeons and the American College of Surgeons. The reviewer has served on the editorial boards for Neurosurgery and Journal of Neurosurgery: Focus. The reviewer has served as a clinical instructor and Assistant Professor of Neurosurgery at the university level. The reviewer is currently an associate professor at the university level. The reviewer has extensive publishing and presentation within their field of specialty. The reviewer has been in active practice since 1986.

MRloA 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.

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

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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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cc: Requestor and Respondent