MCMC

IRO Medical Dispute Resolution M2 Prospective Medical Necessity
IRO Decision Notification Letter

Date:	**03/01/2006**
Injured Employee:	**___**
Address:	
MDR #:	**M2-06-0680-01**
DWC #:	
MCMC Certification #:	**IRO 5294**

REQUESTED SERVICES:
Please review the item(s) in dispute: Pre-authorization denied for lumbar discogram at L3-4, L4-5 and L5-S1.

DECISION: Upheld

IRO MCMC llc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M2 Prospective Medical Dispute Resolution on 03/01/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The requested lumbar discogram at L3-4, L4-5, and L5-S1 is not medically necessary.

CLINICAL HISTORY:
This 28-year-old female was allegedly injured on ___. She was apparently walking and slipped and fell on some soap. She also gave a contradictory history that she was unloading a truck when she was hit on the right side of her forehead by a box of diapers.

She was evaluated the next day complaining of headache and back pain. She also claims to have fallen on her back. On examination there was no objective clinical findings. She was treated with restrictions on lifting and at the same time she was said to be off work. She was given Motrin and asked to use hot or cold packs.

The chiropractor was treating her who evaluated her on 05/24/2005. He noted that she complained of pain in her entire spine and both LE's. The MRI of 5/31/2005 revealed a left paracentral disc protrusion that indented the thecal sac at L5/S1. The remaining spine was normal.

REFERENCE:
False positive findings on lumbar discography: reliability of subjective concordance assessment during provocative disc injections: Carragee, E.J., et al. Spine (1999) 24: 2542-2547.

RATIONALE:
The injured individual is 5'2" tall and weighs 190 pounds. Dr. Glickfeld evaluated the injured individual on 06/09/2005 and did not find any objective clinical findings of organic disease. He noted that the injured individual had been employed for two months. He did state that she had positive Lasègue test bilaterally more on the left. The injured individual was also receiving epidural steroid injection (ESI) at the same time.

The electromyogram (EMG)/nerve conduction velocity (NCV) study of both lower extremities (LE's) on 06/15/2005, a month after the alleged incident was completely normal. The myelogram of 06/22/2005 revealed a 2mm annular bulge at L4/5, and a 3 to 4mm posterocentral protrusion that mildly indented the thecal sac at L5/S1. The post myelogram CT scan showed exactly the same findings. In fact the two reports are identical raising questions as to the accuracy of the readings.

Dr. Machado evaluated her on 07/08/2005. The injured individual claimed that she was not unable to sit. She was said to have spasms in the lumbar region with "elevation of the left lower extremities". The pain is apparently in the lower part of her pelvis and goes to the posterior aspect of the thigh. Based on these findings, which are essentially non-specific and non-focal, this Attending Physician (AP) diagnosed her as having "compression of the nerve with definite radiculopathy." This AP advised her to stay home, "confined to bed", use pain medications and be evaluated "for possible surgery due to the discs that appear to be present".

Dr. Marable [neurologist] evaluated her on 09/30/2005 for complaints of burning sensation down the left leg. She had apparently been told by Dr. Glickfeld [ortho] that she "is a surgical candidate. She was to take Celebrex, Zanaflex, Neurontin and Talwin and continue with chiropractic care.

Dr. Rosenstein [Neurosurgeon] evaluated her on 11/14/2005 for constant low back pain radiating to the left foot with burning, stabbing and weakness. The injured individual apparently now weighed 230 pounds. She claimed to be getting worse and complained of increased pain when standing and with activity. On examination she had a positive straight leg raise (SLR) test with back and left buttock pain. Dr. Rosenstein felt that the myelogram was of a poor quality. He believed a discogram was warranted since, in his opinion, the MRI of 05/31/2005 apparently showed diminished signals with a small central protrusion at L5/S1.

The myelogram/CT scan study of 12/12/2005 only revealed a 2mm central disc protrusion at L5/S1 that reached the dural sac. There was hypertrophy of the ligamentum flavum at L4/5 and mild facet spurs at L2/3 and L4/5. Dr. Rosenstein stated that the injured individual is likely

symptomatic from the L5/S1 protrusion. According the neurosurgeon “this is exactly where her pain is”. He ordered a discogram because the injured individual apparently wanted surgery.

Dr. Rosenstein sent a letter of medical necessity dated 12/20/2005 since he believed that injured individual was a candidate for a lumbar discogram because of the findings on the imaging study. The findings of the MRI study were equivocal and did not produce any nerve root irritation or compression. The injured individual’s complaints were not commensurate with the clinical findings. The myelogram/CT scan studies failed to reveal any surgical lesion. Once again her complaints and clinical exam were not commensurate with the imaging findings.

The injured individual is markedly overweight and is steadily putting on more weight. Her descriptions of the alleged injury were contradictory. She has had unnecessary treatment and testing despite the absence of any objective clinical findings of a specific organic lesion. Despite a completely normal physical examination, she continued to be treated with numerous medications including narcotics, chiropractic care and physical therapy. She was placed on complete bed rest and on work restrictions.

Despite the normal EMG/NCV studies and the equivocal MRI study, the injured individual had two myelogram studies that also failed to reveal a surgical lesion. It is completely inappropriate and unreasonable to request a discogram study on the basis of purely subjective complaints. This injured individual should be on a weight loss and back rehabilitation program with a strong emphasis on a home exercise program (HEP). She should be off medications, should return to work and not be subjected to any further test or treatment. The injured individual has seen many physicians and undergone many imaging studies, on the basis of her complaints, within a short space of time despite the absence of objective findings of an organic lesion.

The literature shows that MRI studies can often show signal changes and even mild disc protrusion in asymptomatic subjects. It is inappropriate to obtain a discogram study in a injured individual who has two normal myelogram studies with CT scan and equivocal MRI study. Discograms have been found to be positive anywhere from 30 to 80% of patients who have either had prior surgery, psychosocial issues, remote chronic pain of unknown etiology and even in patients who have issues of secondary gains. These findings were reported in the NEJM in 2005 by Dr. Carragee. The discogram is a poor prognosticator, for determining if there is any need for invasive treatment, particularly in patients with no objective and clinical findings of an organic lesion of sufficient magnitude to warrant any treatment.

Dr. Holladay [Orthopedics] performed an Report of Medical Evaluation (RME) on 01/16/2006 for pain in her low back radiating to the hip and buttock and leg with numbness and tingling on the lateral aspect of the left ankle. He believed that she was a candidate for surgical treatment. She apparently had a Functional Capacity Exam (FCE) on the same day as the RME. She was said to be capable of sedentary to very light work activities, needed to change her position frequently and apparently “had a lot of limitations and restrictions secondary to having an acute

radiculopathy". Dr. Holladay apparently noted a positive SLR test on the left side at 45 degrees and "some" decreased sensation in the left S11 distribution. Dr. Holladay believed that the myelogram of 12/12/2005 showed a central and left sided herniation though the neuroradiologist did not find any evidence of a left sided herniation or nerve root compression or irritation. Dr. Holladay recommended a discectomy and stated that she was not a candidate for fusion.

On 02/01/2006 Dr. Rosenstein stated that the injured individual was allegedly getting worse and her back pain was worse than her leg pain. He ordered another MRI and recommended a microdiscectomy. It should be noted that the MRI study of 05/31/2005 revealed Schmorl's nodes at the inferior end plates of T11 and T12. The myelogram/CT scan study of 06/22/2005 showed the conus at the T12/L1 level. The myelogram/CT scan 12/12/2005 revealed Schmorl's nodes from T9 to L1 that showed as ventral extra dural defects. The largest was at T10/11 whether there was a 3mm central disc herniation with impingement on the spinal cord. None of these imaging studies were either commensurate with her complaints or the clinical findings. This injured individual is not a candidate for any invasive treatment. Therefore the discogram is completely inappropriate.

RECORDS REVIEWED:

- Notification of IRO Assignment dated 02/01/06
- MR-117 dated 02/01/06
- DWC-60
- DWC-1: Employer's First Report of Injury or Illness dated 05/16/05
- DWC-69: Reports of Medical Evaluation dated 07/08/05, 05/19/05
- DWC-73: Work Status Reports dated 01/06/06, 05/19/05, 05/16/05 and one undated
- MCMC: IRO Medical Dispute Resolution Prospective dated 02/09/06
- MCMC: IRO Acknowledgment and Invoice Notification Letter dated 02/01/06
- Arkansas Claims Management, Inc.: Letter dated 02/08/06 from Raina Robinson, IRO Coordinator with attached Independent Review Organization Summary
- Jacob Rosenstein, M.D.: Follow Up notes dated 02/01/06, 12/12/05
- Felipe Garcia, Jr., M.D.: Pain Evaluation dated 01/24/06
- Healthsouth Evaluation Center: Letter dated 01/06/06 from Robert Holladay, M.D. with attached History and Physical Exam, Patient Intake Interview and Functional Capacity Evaluation
- Jacob Rosenstein, M.D.: Medical Conference Note dated 01/05/06
- UniMed Direct LLC: Review Determinations dated 01/05/06, 12/20/05
- HighPoint Rehabilitation Institute: Chronic Pain Evaluation dated 12/20/05 from Richard Slaughter, Psy.D.
- Jacob Rosenstein, M.D.: Letter dated 12/20/05
- DNI: Lumbar myelogram and CT dated 12/12/05
- Jacob Rosenstein, M.D.: History, Physical and Neurological Examination dated 11/14/05
- Spears Injury Clinic: Letter dated 10/20/05 from Nick Cianelli, D.C.

- Neuro-Spinal Diagnostic Center: Letter dated 09/30/05 from Charles Marable, M.D.
- West Side Orthopedic Clinic: Office notes (handwritten) dated 08/25/05, 07/07/05
- Spears Injury Clinic: Letter dated 08/19/05 from Dr. Timothy Spears
- Gaston Machado, M.D.: Review of Medical History & Physical Exam dated 07/08/05
- Churchill Evaluation Centers: Report of Medical Evaluation dated 07/08/05 from Gaston Machado, M.D.
- Lone Star Imaging: Letters dated 06/28/05, 06/22/05, 06/21/05, 06/15/05, 06/06/05 from Arthur Speece, III, D.O.
- Lone Star Imaging: Film radiography, digital myelography, then computed tomography of the lumbar spine dated 06/22/05; Film radiographs, digital myelography, then computed tomography of the lumbar spine, addendum dated 06/22/05
- North Dallas Advanced Diagnostics: Electrodiagnostic Studies report dated 06/15/05
- Lone Star Imaging: Report of Procedures dated 06/15/05, 06/22/05 from Arthur Speece, III, D.O.
- Lone Star Imaging: Recovery Room Notes/Procedure Notes dated 06/15/05, 06/22/05
- Lone Star Imaging: Procedure Charge Sheets dated 06/15/05, 06/22/05
- West Side Orthopedic Clinic: Letter dated 06/09/05 from Myron Glickfeld, D.O.
- Lone Star Imaging: MRI lumbar spine dated 05/31/05
- Patient Progress (S.O.A.P.) Notes (handwritten) dated 05/24/05 through 11/01/05
- Bruce Cheatham, M.D.: X-rays of the cervical spine, thoracic spine, lumbar spine dated 05/24/05
- Nick Cianelli, D.C.: Narrative History dated 05/19/05
- Concentra Medical Centers: Transcription notes dated 05/19/05, 05/16/05 from Dennis Heath, PA
- Concentra Medical Centers: Physician Activity Status Report dated 05/16/05
- Dennis Heath, PA: Recheck Injury Flowsheet dated 05/16/05
- Encounter-Recheck sheet (handwritten) dated 05/16/05
- Encounter-Initial Injury (Back) sheet (handwritten), undated
- Review of Systems (handwritten), undated
- Article entitled, “Spine An international journal for the study of the spine”
- Article entitled, “Surgical Considerations” (Low Back Complaints), pages 305 through 310
- UniMed Direct LLC: References for Screening Criteria

The reviewing provider is a Licensed/Boarded Orthopedic Surgeon and certifies that no known conflict of interest exists between the reviewing Orthopedic Surgeon and the injured employee, the injured employee’s employer, the injured employee’s insurance carrier, the utilization review agent**,** or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision prior to referral to the IRO. The reviewing physician is on DWC’s Approved Doctor List.

Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

This decision is deemed received by you 5 (five) days after it was mailed (28Tex.Admin. Code 102.4(h**)(2)** or 102.5(d)). A request for a hearing **and a copy of this decision** should be sent to:

Chief Clerk of Proceedings / Appeals Clerk
Texas Department of Insurance Division of Workers' Compensation
P.O. Box 17787
Austin, Texas, 78744
Fax: 512-804-4011
The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U. S. Postal Service from the office of the IRO on this

1st day of March 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee:_____