

# **MATUTECH, INC.**

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April 19, 2006

Rebecca Farless  
Texas Department of Insurance  
Division of Worker's Compensation  
Fax: (512) 804-4871

Re: Medical Dispute Resolution  
MDR Tracking #: M2-06-0848-01  
DWC#: \_\_\_\_\_  
Injured Employee: \_\_\_\_\_  
DOI: \_\_\_\_\_  
IRO#: IRO5317

Dear Ms. Farless:

Matutech, Inc. has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 before referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were obtained from Synergy Chiropractic, Dr. Muffoletto, and Dr. Omar. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by the physician who is licensed in chiropractic healthcare, and is currently on the DWC Approved Doctors List.

Sincerely,



John Kasperbauer  
Matutech, Inc.

## REVIEWER'S REPORT

### Information provided for review:

#### Request for Independent Review

#### Information provided by Synergy Chiropractic:

Electrodiagnostic studies (08/19/05)  
Office notes (10/31/05 – 01/26/06)  
Independent medical evaluation (11/02/05)  
Designated doctor evaluation (12/06/05)  
Functional capacity evaluation (12/06/05 and 01/26/06)

#### Information provided by Dr. Muffoletto:

Office visit (01/23/06)

#### Information provided by Dr. Omar:

Office visits (07/18/05 – 12/30/05)  
Radiodiagnostic studies (08/05/05)

### Clinical History:

This is a 31-year-old male who injured his lower back while picking up some oil pans.

**2005:** Omar Vidal, M.D., saw the patient on July 18, 2005. He noted that he had been initially evaluated by Dr. Nerdy who had started him on therapy. On examination, Dr. Vidal noted decreased range of motion (ROM) of the lumbar spine, a positive straight leg raise (SLR) test bilaterally, and an antalgic gait. He diagnosed lumbar radiculopathy and prescribed Celebrex, Skelaxin, and Vicodin. Magnetic resonance imaging (MRI) of the lumbar spine revealed a focal posterior central subligamentous herniation at L5-S1 consistent with a 3-mm protrusion. X-rays were unremarkable. Electrodiagnostic studies of bilateral lower extremities were unremarkable. Rogelio Rodriguez, D.C., diagnosed lumbar intervertebral disc syndrome and lumbar radiculitis. He initiated therapy. Dr. Vidal administered two lumbar epidural steroid injections (ESIs). The postoperative diagnoses were herniated nucleus pulposus (HNP) of the lumbar spine and lumbar radiculopathy. In an independent medical evaluation (IME), Charles George, M.D., rendered the following opinions: (1) The mechanism of injury and the history was consistent with the diagnosis of lumbar strain. (2) The patient was capable of working light duty with restrictions. (3) The current/continued treatment was reasonable, necessary, and related to the original injury. (4) A full series of ESIs would be reasonable. (5) He had not been taking any medications. Dr. Rodriguez reported that the patient had received approximately one month of therapy with Dr. Nerdy and had remained off work. In a designated doctor evaluation (DDE), Robert Wilkerson, M.D.,

diagnosed lumbar sprain/strain and opined that the patient was not at maximum medical improvement (MMI). He recommended treatment under the care of Dr. Rodriguez since the course of the treatment was helping his condition. In an FCE, the patient performed at a sedentary physical demand level (PDL) whereas his job required a light-medium to medium PDL. A work hardening program (WHP) was recommended.

**2006:** Anthony Muffoletto, M.D., assessed resolving lumbar sprain and recommended continuation of physical therapy (PT). He also recommended WHP. In an FCE, the patient qualified at a light PDL. A multidisciplinary WHP was recommended. In a psychological evaluation, the patient was diagnosed with reactive depression. WHP was recommended. Issan Shanti, M.D., stated that the patient had a failed primary and secondary treatment. He recommended WHP. A preauthorization request for 20 sessions of WHP was placed by Dr. Rodriguez. On February 2, 2006, the request was not authorized for the following reason: The patient had improved from a sedentary PDL to a light PDL at the end of January 2006. His job demands were either light-medium or medium depending on which report one read. A request for reconsideration was sent.

On February 8, 2006, the request was not authorized. The reviewer recommended returning to normal activities. On March 9, 2006, Dr. Rodriguez indicated that there has been no change in the patient's condition.

### **Disputed Services:**

Work hardening program x 20 sessions

### **Explanation of Findings:**

The employee injured his back while working as a chef when he slipped in some grease while carrying a pan of oil weighing anywhere from 40 to 50 pounds based on the records. MRI of the lumbar spine reported a disc disorder at L5/S1 without neurological compromise. Neurodiagnostics were obtained that were negative for lumbar radiculopathy. On 11/02/2005, Charles George, MD evaluated the employee as part of an IME and reported the employee sustained a lumbar strain. The employee reported at that time that he did not intend to return to that type of work in the future. Dr. George believed that the claimant was capable of returning to work with restrictions as outlined in his report. The designated doctor evaluated the employee and did not believe that he was at maximum medical improvement. The diagnosis was lumbosacral strain/sprain. On 01/20/2006, a bona fide offer of employment was presented from Aramark Services for a sedentary position that would limit lifting to items 5 pounds or less with opportunities to take breaks. A functional capacity evaluation on 01/20/2006 placed the employee in the light physical demand level capable of lifting up to 20 pounds. On 01/23/2006, Anthony Muffoletto, MD evaluated the employee and stated in his report that further testing was not necessary since the employee's symptoms are at this point almost zero. Pre-authorization was submitted for 20 sessions of work hardening and was denied. An appeal/reconsideration was submitted and again denied.

**Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn denial:**

Uphold decision to deny 20 sessions of work hardening

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

A work hardening program would be reasonable where less intensive and more cost effective utilization is not available. In this case, there are less intensive and more cost effective utilization programs available. The employee in this case was capable of returning to work according to the IME. The employer had a sedentary physical demand level position available. The FCE placed the employee in the light physical demand level. Dr. Muffoletto reported that the employee's condition had largely resolved. It does not appear based on the medical records provided that an intensive multidisciplinary work hardening program is a reasonable approach. Ostelo et al reported in Spine 02/02/2003 that there is NO strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care.

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The physician providing this review is a Doctor of Chiropractic. The reviewer is certified by the national board of chiropractic examiners and licensed to practice chiropractic healthcare in Texas. The reviewer has been in active practice for over 22 years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile. A copy of this finding to the provider of records, payer and/or URA, patient and the Texas Department of Insurance.

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

The written opinions provided by Matutech 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 Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech 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. 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.

### 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.