MCMC

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

Date:	**04/28/2006**
Injured Employee:	
Address:	
MDR #:	**M2-06-1097-01**
DWC #:	
MCMC Certification #:	**IRO 5294**

REQUESTED SERVICES:
Please review the item(s) in dispute: Pre-authorization request-lumbar laminectomy with fusion and instrumentation L2-S1 with purchase of TLSO back brace, inpatient stay for one day.

DECISION: Upheld

IRO MCMCllc (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 04/28/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The lumbar laminectomy with fusion and instrumentation L2-S1 with purchase of TLSO back brace and inpatient stay for one day are not medically necessary.

CLINICAL HISTORY:
This 69-year-old male is 5'10" tall and weighs 220 pounds was first seen on 12/13/1999 for bilateral shoulder pain. He was treated for bursitis with medication. The injured individual was however not interested in doing a physical therapy (PT) program. On 05/01/2000 he weighed 239 pounds and was complaining of pain in both knees and the right shoulder. The x-rays showed a good joint space in both knees.

The injured individual was taking Glucosamine and chondroitin sulfate. On 04/04/2001 he was given intramuscular Depo-Medrol. On 09/17/2001 the right elbow was injected with Depo-Medrol. He was also given Effexor for depression. On 09/24/2001 he was still complaining of

right elbow pain and he was referred to physical therapy and asked to avoid any stressful activity.

REFERENCE:
Current Concept Review: Lumbar Arthrodesis for the Treatment of Back Pain. JBJS 81: 716 to 730. [1999]. By Hanley, E.N. and Davis, S.M.

RATIONALE:
The note from 2002 essentially deals with the injured individual's medical problems. On _____, he was involved in a one-vehicle accident when the truck apparently skid on some loose dirt on the shoulder of the road. He slid across the seat onto the passenger side. Prior to this the office note of 09/17/2003 was the first documentation of complaints of pain in his low back going down his left leg for the past 12 years which had apparently worsened over the six months prior to the office visit. The x-rays of the left hip showed some osteoarthritis. The x-rays of the lumbar spine of 12/21/2003 revealed generalized degenerative osteoarthritis of the thoracolumbar spine.

Dr. George [neurosurgeon] evaluated the injured individual on 01/14/2004 for complaints of back and right lower extremity pain that was now 10/10 level. On examination he had a positive

straight leg raise (SLR) test on the right at 70 degrees and apparently had 3/5 strength in the quadriceps and Psoas muscles on the right. The MRI study apparently showed a large herniated nucleus propulsus (HNP) at L2/3 with a free fragment behind the L3 body.

There was apparently spinal stenosis at L3/4. However, the herniated disc at L2/3 was believed to be the major problem. On 01/15/2004 he underwent a right L2/3 "microlaminectomy and discectomy". The MRI of 03/26/2004 revealed diffused disc bulge at L2/3 and L3/4. There was mild canal and foraminal stenosis at L3/4. At L4/5 there was a disc bulge and posterior spurring with encroachment of the right foramen and bilateral facet arthrosis.

On 03/26/2004 Dr. George noted that he had been aware that the injured individual had a stenosis at L3/4 at the time he performed the L2/3 discectomy. He now stated that the injured individual would probably undergo decompression at L3/4 and L4/5 in the future. In April 2004 he received Synvisc injections in his left knee. On 04/29/2004 Dr. George performed a complete laminectomy at L4, partial laminectomy at L5 and partial facetectomy at L3.

On 06/07/2004 he saw his primary care physician (PCP) for complaints of neck pain and headaches and was given trigger point injections. The injured individual was taking Flexeril and Clinoril. Dr., Hill did a Report of Medical Evaluation (RME) on 08/05/2004. An MRI dated 10/20/2004 revealed changes of spondylosis and degenerative arthritis of the lumbar spine and facet joints from L2 to S1. There was a disc bulge resulting in mild canal and foraminal encroachment from L3 to L5. On 12/07/2004 the left knee and hip were injected with steroids. Dr. George on 12/10/2004 evaluated him for complaints of back pain radiating in both legs.

The myelogram of 01/14/2005 revealed mild disc bulges. The post myelogram CT scan revealed severe multilevel facet arthrosis from L1 to L5 and less severe changes at L5/S1. There were disc bulges and osteophytes at all levels with moderately severe narrowing of both foramen at L3/4. Dr. George evaluated him on 01/21/2005 and stated that the myelogram and flexion extension views did not show any major stenosis. In his opinion the back pain was a “mechanical type of pain”.

On 05/25/2005 the left knee and sacroiliac (SI) joint were injected with steroids. The injured individual was then was also seen in pain management and was given various medications that included Ultracet, Flomax and Ibuprofen. Dr. McCarty performed a Designated Medical Examination (DME). The electromyogram/nerve conduction velocity (EMG/NCV) studies on 10/20/2005 were negative. Dr. George had apparently recommended L3 to L5 fusion.

Dr. LaGrand [neurosurgeon] evaluated the injured individual on 10/31/2005 for complaints of back and bilateral hip and leg pain. He claimed to be incapacitated by the pain and walked with a flex posture. SLR test was allegedly positive on the right at 60 degrees and 30 -45 degrees on the left. Based on these complaints and findings, the AP recommended additional studies and discussed treatment options. The MRI of 11/09/2005 suggested either scar tissue or extruded disc tissue on the right at L4/5. There was loss of disc height, disc desiccation and mild disc bulging without significant canal or foraminal stenosis from L2 to L5.Another myelogram was done on 11/30/2005 and revealed small central and bilateral defects in the subarachnoid space from L3 to S1.

The post myelogram CT scan revealed a disc osteophyte complex at L2/3 and L3/4. There was a possibility of narrowing of the left lateral recess at L2/3 possibly either due to fat or a disc fragment. There was also effacement of the left side of the thecal sac at L3/4 that could be secondary to a disc fragment. There was mild foraminal encroachment at this level. There were similar changes at L4/5 but of a lesser degree. The changes at L5/S1 were even less prominent. On 12/05/2005 Dr. LeGrand recommended an epidural steroid injection (ESI).

The MRI of 01/18/2006 of the left knee was normal. On 02/09/2006 the injured individual stated that the ESI had only given a minimal and temporary relief. Dr. LeGrand recommended a fusion. Dr. McCarty did another DME on 02/23/2006. He made him maximum medical improvement (MMI) was of 01/18/2006.

This injured individual is a little overweight and has diffused low back pain without a well defined radiculopathy. He has multilevel degenerative lumbar spondylosis with mild disc bulges. The degenerative osteoarthritis with the associated osteophytes resulted in mild foraminal narrowing. Since the changes are from L2 to S1 the proposed surgery is inappropriate and not warranted. There is no scientific data to show that chronic low back pain secondary to age related degenerative osteoarthritis of the spine can be treated successfully with a multilevel fusion. In fact the reports of the various imaging studies does not identify any pathology of sufficient magnitude to warrant the recommended treatment.

RECORDS REVIEWED:
Notification of IRO Assignment dated 04/04/06
MR-117 dated 04/04/06
DWC-60
DWC-1: Employer's First Report of Injury or Illness dated 12/22/03
DWC-69: Report of Medical Evaluations with dates of exam 02/23/06, 02/08/06, 10/05/05
MCMC: IRO Medical Dispute Resolution Prospective dated 04/12/06
MCMC: IRO Acknowledgment and Invoice Notification Letter dated 04/04/06
Parker & Associates, L.L.C.: Letters dated 04/06/06, 03/31/06 from William Weldon
Texas Association of Counties: Pre-Authorization letters dated 03/06/06, 02/16/06
Jack McCarty, D.O.: Designated Medical Examinations dated 02/23/06, 10/05/05
Robert H. LeGrand, Jr., M.D.: Letters dated 02/22/06, 02/09/06, 12/19/05, 12/05/05, 11/17/05, 10/31/05
Crosbyton Clinic Hospital: Physical Therapy Progress Summary (handwritten) dated 02/20/06
Coolbaugh Chiropractic: Impairment Evaluation dated 02/08/06 from Robert Coolbaugh, D.C.
Crosbyton-Clinic Hospital: Physical Therapy Daily Notes (handwritten) dated 01/24/06 through 02/20/06
Crosbyton Clinic Hospital Physical Therapy Initial Evaluation (handwritten) signed 01/24/06
Lubbock Accident & Injury Rehabilitation: Patient Daily Notes (handwritten) dated 01/23/06, 01/20/06, 01/19/06, 01/16/06, 01/13/06, 01/12/06
Crosbyton Clinic Hospital: Physical Therapy Referral dated 01/20/06
Shannon West Texas Memorial Hospital: Operative Reports dated 01/03/06, 11/30/05 from Robert LeGrand, M.D.
Shannon Medical Center: Pain Clinic Record (handwritten) dated 01/03/06
Shannon West Texas Memorial Hospital: Post myelogram CT lumbar spine, lumbar myelogram dated 11/30/05
MRI Central: MR lumbar spine dated 11/09/05
Chronic Pain Management Program Discharge Summary dated 10/28/05
Roger J. Wolcott, M.D.: Electrodiagnostic Evaluation dated 10/20/05
Lubbock Accident & Injury Rehabilitation: Case Management Summary Chronic Pain Program notes (handwritten) for weeks ending 10/07/05, 09/30/05, 09/09/05, 09/02/05, 08/26/05
Winston Whitt, M.D.: Multidisciplinary Chronic Pain Management Team Progress Notes dated 10/04/05, 09/27/05, 09/06/05
Winston Whitt, M.D.: Chronic Pain Management Initial Note dated 08/23/05
LAIR: Chronic Pain Management Program notes dated 08/22/05 through 10/07/05
Lubbock Accident & Injury Rehabilitation: CPMP Daily Notes dated 08/22/05 through 10/06/05
Lubbock Accident and Injury Rehabilitation: Functional Capacity Evaluation dated 04/12/05 from Kathryn Rowell, OTR
Winston Whitt, M.D.: Consultation Note dated 04/05/05
Neurosurgical Associates: Letters dated 01/21/05, 01/19/05 from Richard George, M.D.
Covenant Health System: Lumbar myelogram and CT myelogram lumbar spine dated 01/13/05, lumbar spine radiographs dated 01/16/04, portable lumbar spine radiograph dated 01/15/04, PA and lateral chest radiographs dated 01/14/04, chest radiographs dated 04/28/04, lumbar spine radiographs dated 04/29/04
Crosbyton Clinic Hospital: Radiology Preliminary Report (handwritten) dated 12/31/04

Crosbyton Clinic Hospital: MRI lumbar spine dated 10/20/04, MRI brain dated 06/18/05, MRI left knee dated 01/18/06
Open MRI: Referral form dated 10/20/04
Crosbyton Clinic Hospital: Fax Transmittal Sheet dated10/19/04 with prescription note from Jeffrey Hannel, M.D.
Gerald Hill, M.D.: Required Medical Examination dated 08/05/04
Jeffrey Hannel, M.D.: Letter dated 08/02/04
Crosbyton Clinic Hospital: Fax Transmittal Sheet dated 07/16/04 with handwritten note
Mobile Cardiovascular Test Request: Statement dated 07/16/04
Byton Clinic Hospital: Physical Therapy Daily Notes (handwritten) dated 06/08/04 through 07/12/04
Consent to Operation/Procedure dated 04/27/04, 04/21/04
Undated Pre-Authorization Request with Medical History dates 01/15/04 to 02/22/06
Covenant Health System: History & Physical Examination related to 01/15/04 hospitalization from Richard George, M.D.
Covenant Health System: Operative Reports dated 01/15/04, 04/29/04 from Richard George, M.D.
Covenant Health System Laboratories: Lab reports dated 01/14/04, 01/21/05
Lubbock Diagnostic Radiology: AP and lateral lumbar spine radiographs dated 01/14/04, MRI lumbar spine dated 03/26/04
Neurosurgical Associates: Letter dated 01/14/04 from Chris Brown, P.A.-C
Neurosurgical Associates: Office notes dated 01/14/04, 12/10/04, 03/05/04, 03/26/04, 06/25/04 from Richard George, M.D.
Crosbyton Clinic Hospital: Emergency Room-Outpatient Records (handwritten) dated 12/29/03, 12/21/03
Crosbyton Clinic Hospital: Lumbar spine radiographs dated 12/21/03, left hip radiographs dated 09/17/03, right elbow radiograph dated 09/24/01, right knee, left knee radiograph dated 05/01/00
Laboratory Corporation of America: Lab report dated 09/18/03
Lubbock Accident and Injury Rehabilitation: Weekly Exercise & Activity Sheets for weeks of 10/03 to 10/07, 09/26 to 09/30, 09/05 to 09/09, 08/29 to 09/02, 08/22 to 08/26
Crosbyton: Facsimile dated 09/24/01 with handwritten prescription note from Jeffrey Hannel, M.D.
Consent to Operations dated 09/17/01, 04/14/04, 12/07/04, 05/25/05
Jeffrey Hannel, M.D.: Office notes dated 12/13/99 through 02/20/06
Covenant Family Healthcare Center: Progress Notes (handwritten) dated 12/13/99 through 02/20/06
Covenant Family Healthcare Centers: Progress Notes (handwritten) dated 10/27/99
Crosbyton Hospital: Lab reports dated 08/12/99, 07/31/02, 09/17/03, 10/19/04, 06/07/04, 06/17/05
St. Mary Family Healthcare Center: Progress Notes dated 11/03/98 and 08/10/99

The reviewing provider is a Licensed/Boarded Orthopaedic Surgeon and certifies that no known conflict of interest exists between the reviewing Orthopaedic 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

__28th____ day of _____April_____ 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Beth Cucchi_____