

**Attachment J**

To: Betty Hearty, RN  
BLN Team

From: Christopher Isaacs, DO  
Physician Advisor  
Specialty: Orthopedic Surgeon

Re: Pinnacle Claimant: Les Parker  
Pinnacle Claim No.: 3043040  
DOI: 08/09/2003

Date: July 20, 2009

I have reviewed records on Mr. Parker. As you are aware, there has been a request for ESI injections. Apparently Mr. Parker has recently been complaining of low back problems. On review of his records, there is no indication of any prior problems with his back. He has made no claim of back injury throughout treatment from his date of injury until recently. Therefore, I believe his current back problems are not related to his work injury. Therefore the request for the ESI injections should be denied.

**Dictated but not proofread or signed by Christopher Isaacs, DO**

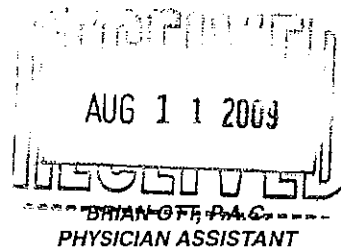
07/21/2009 08:04AM

08/12/2009 09:03AM

**ORTHOPEDIC SURGERY  
and  
SPORTS MEDICINE SPECIALISTS, P.C.**

**TERRY J. WINTORY, D.O.  
ORTHOPEDIC SURGEON**

**CHRISTOPHER L. ISAACS, D.O.  
ORTHOPEDIC SURGEON**



July 29, 2009

Steven Mullens, P.C.  
Attorney at Law  
1401 Court Street  
Pueblo, CO 81003

RE: Les Parker

Dear Mr. Mullens,

I did review records for Mr. Parker. That was done at Pinnacol's office. I personally possess no records of Mr. Parker. Any further requests for records should be addressed to Pinnacol.

Sincerely,

Christopher L. Isaacs, DO  
CLI:PS/jc/ort0730/239473

cc: Pinnacol Assurance

# WESTERN ORTHOPAEDICS

1601 EAST 19TH AVENUE, SUITE 6000  
DENVER, COLORADO 80218-1217

July 27, 2009

Phone: 303-321-1333  
Toll Free: 888-900-1333  
FAX: 303-321-0620  
www.western-ortho.com

James C. Holmes, M.D.  
General Orthopaedics  
Sports Medicine  
Surgery of Knee

Timothy J. Birney, M.D.  
General Orthopaedics  
Spinal Surgery

Ted Parks, M.D.  
General Orthopaedics  
Sports Medicine  
Arthroscopic Surgery

Armodios M. Hatzidakis, M.D.  
General Orthopaedics  
Shoulder and Elbow

Gareth E. Shemesh, M.D.  
Physical Medicine and Rehabilitation  
Electrodiagnostic Medicine

Raj Bazaz, M.D.  
General Orthopaedics  
Sports Medicine  
Arthroscopic Surgery

Kevin K. Nagamani, M.D.  
General Orthopaedics  
Foot and Ankle

Brian J. White, M.D.  
General Orthopaedics  
Sports Medicine  
Arthroscopic Surgery

Steven M. Traina, M.D.  
General Orthopaedics  
Sports Medicine  
Knee and Shoulder Surgery

Valerie C. Suleski, M.A.  
Practice Administrator

Foster Matchett, M.D.  
(1902 - 1979)

Charles Brown, M.D.  
(1917 - 2005)

Fred F. Teal, M.D.  
Retired

Theodore J. Clarke, M.D.  
Emeritus

RE: **LESTER A. PARKER**  
MR #: **101644**

To Whom It May Concern:

This is to inform you that I am taking care of a gentleman by the name of Lester Parker. This gentleman had sustained a significant injury after a fall during a Workman's Compensation case. He had sustained significant trauma to his right lower extremity. He also sustained significant head trauma. He underwent amputation of his right leg, as well as being treated for multiple internal injuries.

Note, that it is my impression he also injured his lumbar spine. He has ongoing sciatica at the present time. I feel that this was not picked up at the initial event because of his other significant injuries. It is my opinion that he would benefit from an epidural injection. It was recommended that he see Dr. Gareth Shemesh for this to help alleviate his sciatic area discomfort and pain. It is my opinion that this will help his recovery from his knee replacement surgery which is scheduled in the near future. I feel that not having his low back addressed, is going to complicate the rehabilitation from his knee surgery.

Please contact me with any specific questions regarding this.

Sincerely,

  
Steven M. Traina, M.D.

SMT/mkw

Stamped in Dr. Traina's absence to avoid delay

**PINNACOL**  
ASSURANCE

RECEIVED  
AUG 06 2009

7501 E. Lowry Blvd.  
Denver, CO 80230

www.pinnacol.com

August 5, 2009

Gareth Shemesh, M.D.  
Western Orthopedics  
1601 East 19<sup>th</sup> Avenue  
Suite 6000  
Denver, CO 80218

Re: Lester Parker  
Claim # 3043040  
DOB: 03/11/1951  
DOI: 08/09/2003

Dear Dr. Shemesh:

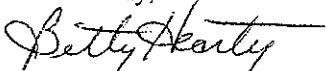
This correspondence is in regards to the request for authorization for bilateral facet blocks and epidural steroid injections at L5- S1 level. As you know this was reviewed with a physician advisor and denied based on relatedness to the original injury in 2003.

Per record review on file, the primary provider has not treated for low back injury. I am attaching the original report of injury for your review.

Please submit your medical rationale relating this to the industrial injury on August 9, 2003. Please explain why the chronic pars defect and facet arthropathy would be injury related and not the natural progression of age.

Thank you for your review and response.

Sincerely,

  
Betty Hearty, RN

Cc: Steve Mullens, Esq.  
Lisa Simons, Esq.

STEVEN U. MULLENS, P.C.  
ATTORNEY AT LAW  
1401 COURT STREET  
PUEBLO, CO 81003  
TELEPHONE 719 - 546-1978  
FAX 719 - 546-0128

STEVEN U. MULLENS  
RICHARD M. LAMPHERE

Of Counsel:

KIM ROEPKE WHITING

August 17, 2009

Practice Limited to  
Workers' Compensation  
and  
Social Security Disability

Lisa Simons, Esq.  
Ruegsegger Simons Smith & Stern, LLC  
1401 17th Street, Ste. 900  
Denver, CO 80202

RE: Les Parker v. Parker Excavating, Inc.  
WC: 4-586-503  
C#: 3043040

Dear Ms. Simons:

I have filed an Application for Hearing on the matter of Les Parker in order to obtain an Order from an Administrative Law Judge compelling your client to pay for the back treatment recommended by Dr. Shemesh. At this time, I would like to take the evidentiary deposition of Christopher Isaacs, DO. Dr. Isaacs is endorsed in my Application. Dr. Isaacs, to my knowledge, practices in Denver and hearing in this matter will be held in Pueblo. I do not want to bear the expense of having Dr. Isaacs travel from Denver to Pueblo for hearing. I would also like to have this matter addressed and resolved as soon as possible. Please advise immediately as to your agreement or disagreement with regard to the taking of Dr. Isaacs evidentiary deposition. If I do not hear from you by August 20, 2009, I will then file a Motion requesting an Order to take his evidentiary deposition. I would also like to take the evidentiary deposition of Betty Hearty, RN and again, since she lives and works in Denver, I would like to get that deposition taken as soon as possible. Please advise as to your agreement to the taking of Nurse Adjuster Hearty's evidentiary deposition as soon as possible. I will likewise file a Motion to take her evidentiary deposition in the event that I do not hear from you by August 20, 2009. Thank you for your attention.

Very truly yours,



SUM:crm

STEVEN U. MULLENS

**PINNACOL**  
ASSURANCE

PROFIT  
AUG 05 2009  
HOSPITAL

7501 E. Lowry Blvd.  
Denver, CO 80230

www.pinnacol.com

August 5, 2009

Richard Gamuac, M.D.  
Parkview Neurology  
1619 N. Greenwood Ave.  
Ste 402  
Pueblo, CO 81003

Re: Lester Parker  
Claim # 3043040  
DOB: 03/11/1951  
DOI: 08/09/2003

Dear Dr. Gamuac:

Thank you for sending the June 29, 2009 dictation report regarding Mr. Les Parker. I am the nurse consultant at Pinnacol Assurance working with Mr. Parker. This correspondence is seeking clarification regarding the diagnoses of partial seizure and its relationship, if any, to his original injury sustained in August 2003, six years ago.

Per record review on file, there is no report of seizure activity in the past six years although Mr. Parker has a pre-existing history of right temporal fracture and hospitalization twenty nine years prior to this work injury sustained on August 9, 2003. This is mentioned by the neurologist Dr. Ashakiran Sunku, M.D.'s July 4, 2004 medical report copied for your review. This report also states Mr. Parker has a sister with a history of epilepsy.

The primary provider has not treated Mr. Parker for seizures. I am attaching the original report of injury for your review. There was no report of loss of conscious from this injury, although Mr. Parker was reportedly struck on the head at the time of injury. Mr. Parker was in a drug induced coma for ten days post injury due to the severity of his other wounds. The initial ophthalmology and inpatient speech evaluation is included for review.

There is no clear medical documentation showing a traumatic brain injury to Mr. Parker. The initial neuropsychological testing completed by Dr Dennis Wack, PhD on 3/17/2004 is included for your review along with multiple additional reports.

Please submit your medical rationale relating the recent diagnoses of partial seizure disorder to the industrial injury on August 9, 2003.

How does the familial history of epilepsy noted in Mr. Parker's self report impact the probability that this is a familial disorder?

Or related to the head trauma and temporal fracture sustained when Mr. Parker was in his twenties?

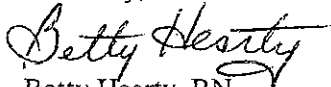
What is the medical probability the negative EEG's completed early post injury would now be positive for seizure activity if this was secondary to head trauma during Mr. Parker's initial injury.

Page 2

If you are in need of any additional medical reports, please contact Dr. Steven Kinnett, M.D. or Mr. Parker's legal representative, Mr. Steve Mullens. If I can be of assistance in obtaining records, I will be happy to attempt to do so.

Thank you for your review and response.

Sincerely,

  
Betty Hearty, RN

Cc: Steve Mullens, Esq.

Lisa Simons, Esq.

Encl: Multiple medical records from Date of injury until present

AUG 17 2009

Claim #: 3043040  
WC #: 4586503  
Injured Worker: Les Parker  
DOI: 08/09/2003  
Employer #: 4058128  
Date: 08/13/2009  
Auth #: 1076014

LAW FIRM OF STEVEN U MULLENS-PUEBLO  
1401 COURT STREET  
PUEBLO CO 81003

Dear Provider:

You requested reconsideration of our denial for authorization for:  
ESI L5/S1 & bilateral facet blocks

**On reconsideration, your request for authorization has been approved.**

Please continue to provide clinical progress notes so that we can monitor the outcomes of approved medical services.

Thank you for working with us to reach this agreement.

Sincerely,

Betty Hearty, Strategic Nurse Consultant  
303-361-4331 or 1-877-361-4300  
Fax: 303-361-5300 or 1-888-329-2208  
Email: betty.hearty@pinnacol.com

org: FRE Western Orthopaedics PC  
cc: ATY Law Firm Of Steven U Mullens-Pueblo  
CLT Les Parker  
EMP Parker Excavating Inc  
CCE Lisa Simons

Claims Rep/Nurse: Carmella Barbieri/Betty Hearty

*simons advised*



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STEVEN U. MULLENS  
RICHARD M. LAMPHERE

Of Counsel:

KIM ROEPKE WHITING

August 28, 2009

Practice Limited to  
Workers' Compensation  
and  
Social Security Disability

Lisa A. Simons, Esq.  
Ruegsegger Simons Smith & Stern, LLC  
1401 Seventeenth Street, Suite 900  
Denver, CO 80202

RE: Les Parker v. Parker Excavating Inc.  
WC: 4-586-503  
C#: 3043040

Dear Ms. Simons:

I spoke with your paralegal, Kate Linden, on August 27, 2009. At that time, I requested information regarding Dr. Lawrence Lesnak. Ms. Linden wrote a letter to me with a copy to my client on August 11, 2009 indicating that Pinnacol (we) have scheduled an Independent Medical Examination of Mr. Parker with Dr. Lesnak. I don't think Dr. Lesnak is independent in any sense of the word but I specifically requested that Ms. Linden obtain information and documents for me as follows:

1. Is Dr. Lesnak a Pinnacol Select Net physician?
2. Is Dr. Lesnak a Pinnacol Medical Advisor?
3. Please provide a copy of Dr. Lesnak's CV.
4. Please provide a copy of the face sheet for Dr. Lesnak's malpractice coverage through the date of October 7, 2009.

If Dr. Lesnak is contracted with Pinnacol as a Select Net physician and/or Medical Advisor, it will be Claimant's position that Dr. Lesnak is not entitled to any type of immunity from liability pursuant to traditional legal concepts of physicians serving as independent evaluators who are not directly employed by the insurance company. If it turns out that Lesnak is in fact, a Pinnacol Select Net Provider and/or Medical Advisor and Lesnak causes any harm of any kind to Mr. Parker including delay or reduction in treatment, Mr. Parker will look to Dr. Lesnak as well as Pinnacol for consequential damages and any other type of damage

or penalty that may be available as a result of that working relationship between Pinnacol and Lesnak that has not been disclosed and in fact has been suppressed.

Mr. Parker has had a fairly tough go of things as a result of the outrageous conduct engaged in by Pinnacol Assurance primarily through the efforts of Nurse Adjuster, Betty Hearty. Hearty has outright lied to various medical evaluators and providers as to the Claimant's medical history in this matter and has done so in order to cheat Mr. Parker out of medical treatment to which he is clearly entitled. I do not use any of those terms lightly.

Most recently, Ms. Hearty engaged in an effort to cheat Mr. Parker out of treatment for his low back by representing to one of the Pinnacol Medical Advisors that there never had been a complaint of low back problem after Mr. Parker's catastrophic traumatic injuries. Because of the multiple sources of information that fully supports Mr. Parker's report of low back pain as a result of the injury and based upon Nurse Adjuster Hearty's report of low back pain as a result of the injury, (in a separate document) and based upon Nurse Adjuster Hearty's failure to engage in anything that can be construed as due diligence and her decision instead to outright misrepresent to one of Pinnacol's Medical Advisors what had or had not transpired with regard to Mr. Parker's low back discomfort as a result of this traumatic injury, Mr. Parker has suffered delay in treatment for his low back. Likewise, Nurse Adjuster Hearty has intentionally misrepresented the status of Mr. Parker suffering traumatic brain injury or any type of head injury that may produce ongoing symptoms including cognitive deficit, headaches and seizures. Again, all of this was done in order to deprive and cheat Mr. Parker out of reasonable and necessary healthcare for his compensable catastrophic work injuries. While Nurse Hearty may view her conduct as satisfying a major business objective at Pinnacol Assurance in order to plump up her bonus, Mr. Parker views her conduct as constituting the torts of bad faith adjusting and outrageous conduct.

I look forward to receiving the requested information from you pertaining to Dr. Lesnak at your earliest convenience. If I have not heard from you by the middle of September, I will then move for protective relief in connection with Claimant having to see Lesnak.

One last comment: The language contained in this letter is fairly strong. I apologize that it is not adequate to describe the enormity of the conduct that Nurse Adjuster Hearty has engaged in.

Respectfully submitted,



STEVEN U. MULLENS

SUM:crm

cc: Les Parker