

November 30, 2011

Dear Reena S.,

I writing this letter in response to the denial letter dated November 15, 2011 (see attached copy). I completely disagree with the finding of this medical review, and I am requesting reconsideration. I have attached additional documentation with underlined sections proving my points. The correct decision would be for WSI to award benefits. As to why WSI would award benefits, you have to read all of the additional pages that were mailed with this letter.

I am also attaching a letter that I mailed to Mary Marthaller. I sent her this letter as a result of a phone conversation with her. But she has not responded to a single question in the letter. However I did confirm over the phone that she received the letter. I penned in your name at the top of the letter. Please take all of the questions in the letter to be addressed to you as well.

I am also attaching a letter I sent to Maureen Kosiak (PA) at medcenter one. Maureen has also ignored my letter. However, I did confirm with her secretary over the phone that she did receive the letter. Please take all of the points and question in the letter to Maureen to be addressed to you as well.

I will likely be sending all this information to a legal councilor as well. I would rather not pursue litigation. Unfortunately, this seems to be direction this is headed.

Regards,

Luke Kenner

Bryan Klipfel
Director



North Dakota
**Workforce Safety
& Insurance**
Putting Safety to Work

www.WorkforceSafety.com

6 1 5 1 5 7 8 8

1600 East Century Avenue, Suite 1
PO Box 5585
Bismarck ND 58506 - 5585

November 15, 2011

Luke Kenner
223 13th Ave W Apt 10
Dickinson ND 58601-6234

Butler Machinery Company
PO Box 9559
Fargo ND 58106-9559

Injured Worker:	Luke Kenner	Birth Date:	09/02/1986
Claim No.:	2010-819588	Injury Date:	05/04/2010
Body Part:	Lumbar Spine, Thoracic Spine		

NOTICE OF DECISION DENYING FURTHER LIABILITY

Please read this notice carefully as it may require action within 30 days. This notice is to inform you of Workforce Safety & Insurance's (WSI) decision to discontinue or reduce benefits.

WSI is denying further liability for your thoracic and lumbar spine because:

Your treating provider released you at maximum medical improvement on 06/17/2010 in relation to the work injury.

Based on the medical information on file and the length of time between treatments WSI had a medical review completed by our WSI medical consultant. The medical consultant concluded that the current treatment is not related to the 05/04/2010 work incident. The medical consultant opined, the first report of injury notes that he held a part in place on 5/4/10 and strained his back. The 6/17/10 exam noted that he was at MMI for a thoracic lumbar strain subsequent to the 5/4/10 work incident and that he did not have any work restrictions. The 6/30/10 MRI report notes degenerative disc disease at L5-S1, spondylolisthesis, facet joint osteoarthritis, mild disc bulging. The 6/30/10 consultation discusses that due to the 6/30/10 MRI findings that he is at risk for having back pain. The 6/30/10 MRI findings are not related to the 5/4/10 incident.

WSI sent this medical review to your primary treating physician on two occasions with no response from them.

Based on the medical review WSI has no further liability for your condition.

If you feel this decision is incorrect, please write to your claims adjuster within 30 days of the date on this notice to request reconsideration. Please explain why you think the decision is wrong and what you think the correct decision should be. Also enclose any additional information for WSI to consider. The request for reconsideration must be in writing from you, not your physician. If a request for reconsideration is not received within 30 days, this decision will be final. **If you agree with this decision, nothing more is required.**

Sincerely,

Reena S.

Reena S., Claims Adjuster
Bismarck Office

cc: Butler Machinery Company

FL722

3124

Bryan Klipfel
Director



North Dakota
**Workforce Safety
& Insurance**

Putting Safety to Work

www.WorkforceSafety.com

★ 6 1 7 6 4 0 0 1 ★

1600 East Century Avenue, Suite 1
PO Box 5585
Bismarck ND 58506 - 5585

December 23, 2011

Luke Kenner
223 13th Ave W Apt 10
Dickinson ND 58601-6234

Injured Worker:	Luke Kenner	Birth Date:	09/02/1986
Claim No.:	2010-819588	Injury Date:	05/04/2010
Body Part:	Lumbar Spine, Thoracic Spine		

Dear Luke Kenner:

Workforce Safety & Insurance (WSI) has reviewed the evidence submitted to reconsider the decision as outlined in the Notice of Decision Denying Benefits dated 11/15/2011.

The evidence submitted is not sufficient to change WSI's decision. WSI's Legal Department will issue an administrative order further explaining the decision.

If you have any questions or concerns, please contact customer service at 1-800-777-5033 or 701-328-3800.

Sincerely,

Reena S.

Reena S., Claims Adjuster
Bismarck Office

cc: Butler Machinery Company

FL712-1

October 7, 2011

Luke Kenner

223 13th Ave. W. #10

Dickinson, ND 58601

Dear Mary Marthaller,

+ Maureen,

As we spoke on the phone yesterday, I am taking issue with the letter that was sent to Maureen Kosiak dated October 4, 2011. They are stating that "the 6/30/10 MRI findings are not related to the 5/4/10 incident." I completely disagree. I have attached the letter that I sent to Maureen yesterday; along with the notes with underlined sections.

I also feel a need to shed some light on the final notes of Laura Sundahl from 6/17/10. She did a poor job of writing what was verbally spoken to me. I did not realize that Laura Sundahl was making this claim until several weeks later because I didn't read her notes until then.

On 6/17/10 We had a meeting with Stephanie Murdock (Medcenter One Administrator), Laura Sundahl (NP), Michelle Fredeen (Butler Machinery Companies Head Safety Person), and I. I was told that you are having very serious symptoms concerning your lumbar (i.e. tingling in my feet, pain in my testicles), but that isn't related to your injury. You should go see some else on your personal insurance. I was in complete disagreement with them on this, and so was Butler Machinery Co.

I didn't realize this until later, but let me explain what they were claiming. Laura Sundahl was claiming that my late April Injury was a lumbar sprang, and my 5/4/10 injury was a thoracic sprang. My late April claim was denied, so Laura thought WSI was denying coverage of my lumbar. Since, my thoracic sprang was no longer bothering me I was released MMI for the so called 'original' injury. Another way of saying this would be 'Your thoracic sprang is MMI, you have no work restrictions concerning your thoracic.'

There was another meeting set up that I was not a part of. The results of this meeting were that even if the injury from April was a lumbar sprang WSI would cover it. WSI would cover it because **it was work related**. The claim was only denied because it was not with the designated medical provider. Hence, I was no longer considered MMI, because Butler didn't agree with Medcenter 1 and neither did WSI. The MRI was ordered and WSI approved and paid for the MRI.

I raise the question why was I released MMI on 6/17/10 and then later given a referral to a specialist by Laura Sundahl? And then that specialist immediately ordered and MRI? And why did WSI cover it? For one simple reason: I wasn't MMI concerning my Lumbar problems, and my lumbar problems were work related. Contrary to what Laura had initially claimed.

Mary, as we spoke on the phone yesterday I have some additional questions. Were Dr. Kostelecky's notes concerning the April 2010 injury part of the recent medical review? Also, Reena S. told me yesterday over the phone that WSI couldn't send the April notes to Maureen unless I sign a release. Hence, Maureen would only have part of the story. I now raise the question who are the people doing the Medical review of my claim, and looking at all of my notes without my authorization? I also want to ask is the review being done outside of Medcenter 1? It should be. This review should be being done by a party or parties that have no stake or claim in this case.

I would also request that my notes from Dr. Tim Peters(DC) of Dickinson be part of the review. WSI is claiming that it has been over a year since I have had treatment for this injury. This is not true. I have been seeing a chiropractor regularly on my own expense. WSI would not cover this expense because Medcenter 1 refuses to give me a referral outside of Medcenter 1. And they do not have any Chiropractors on staff in Dickinson, only in Bismark. My personal insurance will not cover this expense because it is a work related injury. This is all due to the designated Medical Provider Policies that in my opinion are unfair. I am working with the North Dakota Legislative Council to try to change these policies for future injured workers. Please have Tim Peter's notes as part of the review of an independent non-biased party. Also, please read through the letter I sent to Mauareen Kosiak as well as the additional Documentation I'm sending with.

I would prefer to communicate this in person since I can speak far better than I can write. Please call me if you can. My number is 218-686-6295.

Regards,

Luke Kenner

Medcenter One
Occupational Health Clinic
1531 West Villard
Dickinson, ND 58601
(701) 225-7575

PATIENT NAME: KENNER, LUKE
DOB: 09/02/1986
DATE: 06/17/2010

EMPLOYER: Butler Machinery

DATE OF INJURY: May 4, 2010

CHIEF COMPLAINT: Worker returns to clinic as scheduled for assessment after being seen by physical therapy twice since last seen in clinic by this nurse practitioner.

HISTORY OF PRESENT ILLNESS: When he was initially seen in clinic by this NP on 5/6/10 for reported injury of 5/4/2010, he did mention that he had been treated by Chiropractor for history of low back pain. He rated his middle back pain as 1/10 when last seen in clinic by this nurse practitioner on June 7, 2010 for thoracic back pain injury, but that is now limited to only a certain movement, which Worker demonstrated by standing, leaning back and extending at the waist and certain positions, such as "slouching" in chair which caused 1/10 pain and also some numbness and tingling of his right lower back and foot. Otherwise, no longer having thoracic back pain. Worker advised of observed slouching posture and reminded of Physical Therapists' instruction to avoid slouching in chair.

Worker's current injury concern is that on Wednesday, April (28), 2010 he was working late in the afternoon throwing pallets onto a stack when he went to lift or "toss" a pallet up onto the other pallets. He had to reach above his head. He had some discomfort in his low back but it hurt much worse the next morning. He states he saw a chiropractor for this low back pain and got an adjustment but no work restrictions from the chiropractor. He's now reporting new symptoms not consistent with thoracic back stain. There are inconsistencies in his history but he reports again he had a chiropractic appointment on June 8, 2010 and had two chiropractic treatments for low back the week prior to June 9 per documentation.

On review of physical therapy's evaluation and treatments June 9th and June 15th, there is inconsistencies as to which work injury the worker is attributing the back pain and sometimes paresthesia, whether to the injury when he was assisting to bolt down a heavy piece of equipment in the engine room or when he was working stacking pallets. When seen June 9th, Worker reported that the problem was worse when he was sitting for prolonged periods of time. When seen by physical therapy June 15 he again mentioned that the problem was worse with sitting and especially with slouching and it was noted by the PT at that time, that the worker was again slouching and this had been discussed with him in the past during physical therapy.

Today when seen, the above physical therapy results and plans for discontinuing the physical therapy were discussed with this worker and

~~But~~ Year 1
#24
2007
Not in
2010

That's the
wrong date

Butt
Crop
This is
incorrect
& Not find
See John
Kostelecky's
Notes
&
Initial letter
from WOI
(to King)
"Thoracic"

See Dr.
Kostelecky's
Notes &
letter from
WOI
regarding
injury

false
that it was felt that the new onset of signs and symptoms were not related to the original injury for which he came to the occupational health clinic. Worker is receiving back care from both chiropractic clinic and this clinic. Unable to determine what therapy was of benefit and what may not be beneficial. He has been discontinued from Physical Therapy. With the inconsistent middle back pain now down to 1/10, will release the Worker/Discharge from clinic at Maximum Medical Improvement.

The worker's employer was with him at the meeting today as well as the Occupational Health Director and this worker's history, progress and status were reviewed. Employer stated she planned to have an MRI done. Determined by this nurse practitioner that an MRI is not medically indicated at this time for the original WSI back strain injury and that this worker would be discharged/Released from clinic.

DIAGNOSIS: Thoracic spine strain with pain related to work 5/4/10.
ICD-9 code 724.1. c/o Lumbar/low back pain related to strain/sprain.
ICD-9 code 724.2.

PLAN OF CARE: Continue the physical therapy exercises for continued strengthening of the back. Patient is released to maximum medical improvement with no activity restrictions and advised to use anti-inflammatories for discomfort. He may return to work without any restrictions.

(Laura Sundahl, APRN, FNP-BC/jm)

D: 06/21/2010 07:07:00 pm

T: 06/22/2010 01:38:24 am

October 6, 2011

Luke Kenner

223 13th Ave. W #10

Dickinson, ND 58601

~~XXXXXXXXXX~~
Dear Maureen Kosiak, PA-C, *+ Reena S.*

I am sending you this letter in response to a letter that was sent to you (and cc to me), dated October 4, 2011. (I have attached a copy of this letter). I do not agree with the Medical advisors with the findings of the medical review contained in this letter. After talking with Reena S. (from WSI) this morning, it appears that the Notes from my treatment with John Kostecky were not part of the review. The Chiropractic treatment I received in April of 2010 was a result of Work Related injury. However, WSI denied this claim. ***WSI did not deny the claim because it wasn't work related. They denied the claim because it wasn't with the designated Medical Provider. WSI would agree that it was work related.*** During the time of my April 2010 Chiropractic Treatment, I was not aware that my company even had a designated medical provider. It is partially my fault that I didn't know my company had a designated Medical Provider, but for the sake of shortening this letter I won't go into all the details concerning that.

The Biggest issue I take with the medical review is that "The 6/30/10 MRI findings are not related to the 5/4/10 incident." If they are not related to the 5/4/10 incident what are they related to? Based on the limited information in the letter, I see 3 possibilities.

1. They are saying the Lumbar bulging disk is related to the injury I had in April of 2010.

-I do not agree with this. But if you went by Laura Sundahl's notes of 6/7/2010 (see attach) that is what you would conclude. She quotes me saying I hurt my "low back" when I specifically said, "I had no lower back pain on that 1st injury."

-The thing is, even if it was true that I had a lumbar sprain in April 2010, and then had a lumbar-thoracic sprain in May of 2010, WSI should cover it. Also note that the 1st date of injury in Laura's notes are not correct (she said April 28, 2010). April 28th 2010 was the 1st date of Treatment, but the injury was on April 22, 2010.

-I have attached John Kostecky's Note's for all of my Treatment with him from May 28, 2010 on onward. After the reading the notes I would encourage you to perhaps have Dr. Jeff Askew overlook them and see if he would call Dr. John Kostecky's Diagnosis a Lumbar Sprain. I do not agree, and I would call it a Thoracic sprain just like WSI did in their denial letter (which I have also attached).

2. They are saying the Lumbar bulging disk is related to dates between 6/17/10 and 6/30/10.

-I was released 6/17/10 MMI but was then given a referral by Laura Sundahl for MRI on 6/30/10. Are they thinking I re-injured myself in that time frame? I didn't because though I was released MMI from Medcenter One, my company didn't agree with Medcenter one and

refused to take me off of light duty until after the MRI. I have attached an e-mail letter showing this.

3. They are saying that the Lumbar bulging disk happened in my work related 2007 back injury.

-Even if this is true, there is no reason to deny coverage for that, because the 2007 claim was accepted and paid for by WSI, and the injury was with the same company. Hence, claiming a pre-existing work related injury to deny a work related injury. Not only would that be unethical, but also illegal; which is why I do not think they are making this claim.

Please inquire of WSI if the 6/30/10 MRI findings are not related to the 5/4/10 incident, then what incident are they related to?

In my opinion, Laura Sunsdahl initially misdiagnosed my back sprang as a "thoracic" sprang instead of a "Lumbar thoracic sprang." Report on 5/6/10 says the "Patient does self limit on his range of motion of extension at the waist." Is that not an indication of a lumbar problem? If you read her notes from 5/6/10 Laura Diagnosis my injury as a "thoracic" pain. But if you look at the Nicholl's (the physical therapist) notes from the same day (5/6/11) she diagnosis it as a "Lumbar" pain. In order to agree with WSI you would have to say that Nicholl is the one making the error. I do not agree. I think Laura Sunsdahl is the one who made the error.

Maureen, It is unfortunate that you end up being in the middle of this. In all reality, you have to deal with circumstances when you had nothing to do with bringing them about. I really hope you will consider the points I brought up in this letter. I know that you would prefer to just care for the patient and not deal with insurance issues. But now days insurance issues are getting to be part of the care. The stress that I've had in dealing with these insurance companies is sometimes more bothersome than my physical pain. I would prefer to talk to you over the phone, since I can speak far better than I can write, but it is hard to get a physician on the phone now days. If you can, please call me at 218-686-6295. Thank you for your consideration.

Regards,

Luke Kenner

Bryan Klipfel
Director



North Dakota
Workforce Safety
& Insurance

Putting Safety to Work

www.WorkforceSafety.com

★ 6 1 2 1 6 3 1 8 ★

1600 East Century Avenue, Suite 1
PO Box 5585
Bismarck ND 58506 - 5585

October 4, 2011

Maureen Kosiak
1531 W Villard St
Dickinson ND 58601

Injured Worker: Luke Kenner
Claim No.: 2010-819588
Body Part: Lumbar Spine, Thoracic Spine

Birth Date: 09/02/1986
Injury Date: 05/04/2010

Dear Maureen Kosiak, PA-C:

You have been treating Mr. Kenner for complaints of back pain.

Mr. Kenner sustained a work related sprain and strain to his thoracic and lumbar spine on 5/4/2010. Mr. Kenner was released at maximum medical improvement (MMI) on 06/17/2010. Mr. Kenner then returned to see you on 07/22/2011. Based on the length of time between medical treatment WSI had a medical review completed by the WSI medical advisor.

Below is the findings of that medical review.

The current treatment is not related to the 5/4/10 work incident. The first report of injury notes that he held a part in place on 5/4/10 and strained his back. The 6/17/10 exam noted that he was at MMI for a thoracic lumbar strain subsequent to the 5/4/10 work incident and that he did not have any work restrictions. The 6/30/10 MRI report notes degenerative disc disease at L5-S1, spondylolisthesis, facet joint osteoarthritis, mild disc bulging. The 6/30/10 consultation discusses that due to the 6/30/10 MRI findings that he is at risk for having back pain. The 6/30/10 MRI findings are not related to the 5/4/10 incident.

Please answer the following question.

1) Do you concur with the findings of the medical review completed by the WSI medical advisor?

If you do not concur, please support your opinion with objective medical findings.

I look forward to your response.

In order to receive reimbursement for your services, please provide Workforce Safety & Insurance with the amount of time you spent doing this review.

If you have any questions or concerns, please contact customer service at 1-800-777-5033 or 701-328-3800.

Sincerely,

Reena S.

Reena S., Claims Adjuster
Bismarck Office

minor office
701-839-5902 Ext: 5978
Fax 701-839-5909

Medcenter One
Occupational Health Clinic
1531 West Villard
Dickinson, ND 58601
(701) 225-7575

PATIENT NAME: KENNER, LUKE
DOB: 09/02/1986
DATE: 05/06/2010

DATE OF INJURY: May 4, 2010.

CHIEF COMPLAINT: Worker states he is having pain in his back that is not improving and pain increases with any lifting.

HISTORY OF PRESENT ILLNESS: This 23-year-old full-time mechanic for Butler Machinery states that he was out in the oil field sites working on a diesel engine in an enclosed generator room and he was leaning forward and reaching out holding a cast iron steel, copper tubing cylinder unit that weighed approximately 70 pounds. He was helping balance it while another coworker was trying to align it so the bolt would fit into the holes and line up for fastening. He states the engine room was enclosed and it was very difficult to use proper body mechanics while doing this. He said usually there would be 2 people on either side of the piece of this cylinder. He states he was in this awkward position doing the heavy lifting for approximately 3 minutes and states that he almost was not able to maintain that for that long. He said at the time he was also kneeling on both knees with his head slightly back so he could look toward the area where the coworker was working on the bolts. He states ordinarily that type of work is done with a hoist but the engine room at the rig site not set up for a hoist to be used. He usually works the 7 to 5:30 shift and states this happened

at approximately 3:30 p.m. The worker reports that the day after the initial episode he had discomfort in his mid back which was a dull ache all day Wednesday. He has not been using any analgesic medication and has used some ice to the area and also tried using a white elastic binder which he had from trauma which he suffered at age 18, but he did not feel that the binder was helpful. He has not used any over-the-counter or topical medications to the area either. Worker reports that the pain is gets worse when he is lifting anything heavy which is frequent in his work.

PAST MEDICAL HISTORY: He does have a history of some similar problems in the distant past when he had a back strain 2 years ago. He was treated at that time 2 to 3 times by a chiropractor. He does state that he did recently see the chiropractor, his last visit being Monday 5/3/10, prior to this back episode. He also has a remote history of fractured collarbone and also history of some occasional palpitations in 2006 and a Holter monitor was done but no diagnosis given per Worker. Reports the physician felt like he possibly was having some supraventricular tachycardia symptoms but he is not on any medications.

SURGICAL HISTORY: Positive for LASIK surgery of eyes in 2004 approximately.

SOCIAL HISTORY: This is a 23-year-old single, full-time mechanic at Butler Machinery from Dickinson, ND states he is a nonsmoker and rare use of alcohol socially. Not on any routine prescription medications.

FAMILY HISTORY: Reviewed and essentially no musculoskeletal or arthritic problems such as rheumatoid arthritis and no other family history contributory.

ALLERGIES: No known drug allergies.

MEDICATIONS: He is not on any medications on a regular basis.

REVIEW OF SYSTEMS: Reports he has good appetite. No undesired weight loss. He states he sleeps well except on weekends when he changes his sleeping routine, then has some problems getting to sleep. He states he wears ear plugs while at work and sometimes has problems with wax accumulating in his ears, but otherwise no eyes, ears, nose, or throat problems.

CARDIOLOGIC: He had some rhythm problems in the past but none now.

RESPIRATORY: He states he had chronic bronchitis as a child and had sinus infection 2 to 3 times in his lifetime. No antibiotics for his sinuses.

GASTROINTESTINAL: He states he had problems reflux in high school but no genitourinary problems.

SKIN: He states he used doxycycline when he was younger for acne and still has some problems with acne.

NEUROLOGICAL: Negative.

PHYSICAL EXAMINATION

VITAL SIGNS: Temperature 99.1. Pulse 56.

Respirations 16. Blood pressure 128/84. Height 71-1/2 inches tall. Weight 200 pounds which brings his BMI to 28.

GENERAL: The patient is alert and oriented times 3, not in acute distress. He shows a normal gait pattern and is able to get up and down from his chair and on and off the exam tablet without acute problems. No posturing or guarding is noted. No acute alignment problems of the spine. The patient does self limit on his range of motion of extension at the waist, however he is able to bend forward and laterally without too much problem. He does

?
is this not
an indication
of a lumbar
problem.

have discomfort on palpation along the paraspinous muscles and over approximately T10 vertebrae. No acute increased redness, warmth, or swelling of the area. The pain goes down to his lumbar area on the left side without any radiation down his buttock or into the upper thighs. Deep tendon reflexes present and equal bilaterally. No edema of the distal extremities. Distal extremities normal flesh tones and warmth.

MEDICAL DIAGNOSES: Pain, thoracic spine, related to strain while working May 4, 2010. ICD-9 code diagnosis 724.1.

The management plan is for conservative management of back strain with over-the-counter nonsteroidal anti-inflammatories such as ibuprofen or Naproxen and discussed how to use those over-the-counter medications. Also suggested topical analgesics and hot or cold to the area for 20 minutes at a time alternating for comfort. We will refer him to physical therapy for evaluation and treatment. Activity restrictions, although the patient may return to work: lifting should be limited to 20 pounds or less, twisting and reaching may be performed up to 20 minutes per hour. The patient is to return to the clinic to see the nurse practitioner in 7 days for further assessment after receiving physical therapy treatments.
(Laura Sundahl, APRN, FNP-BC/ju)

D: 05/17/2010 05:47:00 pm
T: 05/17/2010 07:22:11 pm

Medcenter One
Occupational Health Clinic
1531 West Villard
Dickinson, ND 58601
(701) 225-7575

Physical Therapy Initial Evaluation

PATIENT NAME: KENNER, LUKE
DOB: 09/02/1986
DATE: 05/06/2010

REFERRING PHYSICIAN: Laura Sundahl, FNP

DIAGNOSIS: Lumbar spine/back pain.

DATE OF INJURY: May 4, 2010.

This is patient's 1st physical therapy treatment session.

SUBJECTIVE

ONSET/MECHANISM: Patient works full-time for Butler Machinery as a mechanic. On May 4, 2010, he was kneeling for a prolonged period of time holding an oil cooler which weighs approximately 70 pounds. He was holding the oil cooler with a slight twist of his thoracic and lumbar spine, along with a flexed forward posture.

COMPLAINT/PAIN: Patient's worst pain is a 3 out of 10 and 0 out of 10 pain at rest.

BEHAVIOR OF PAIN: Patient is reporting pain from the mid to low back, left greater than right, with a constant achy pain. He denies any numbness or tingling and denies any sharp, shooting pain.

DIAGNOSTIC TESTS: None.

WORK RESTRICTIONS: Patient is to avoid frequent bending or twisting and not to lift over 20 pounds.

PAST/CURRENT TREATMENT: Patient has been using heat and/or ice to assist with decreasing pain. He denies any previous low back or thoracic back injuries.

MEDICATIONS: None.

PHYSICIAN FOLLOWUP: Patient sees Laura Sundahl, FNP, on May 13, 2010.

PATIENT GOALS: Patient would like to be pain-free in his low back at all times.

OBJECTIVE

OBSERVATION: Patient does not appear to be guarded with any transitions, transfers, or with gait. In standing, he has no lordosis.

GAIT: Patient has a normal gait pattern on level surfaces without deviations.

ROM: Patient has only 10 degrees of back extension. All other motions are normal for rotation, sidebending, and forward flexion. Patient denies pain with any active range of motion except for discomfort along T10 with back extension. With combined movements to the left, there was increased pain around T10. Hamstring range of motion was limited to 70 degrees bilaterally. Patient denies any pain with hamstring flexibility.

STRENGTH: Patient's core strength was limited to a 2 out of 5, otherwise no other strength deficits are noted.

PALPATION: Patient is tender along T10 through L2 on the left side greater than the right side of the lumbar spine along the paraspinal musculature and also with gentle PA glides.

NEUROLOGIC TESTING: Reflexes are equal bilaterally.

SPECIAL TESTS: No special tests except for combined movement patterns caused discomfort in the low back. Combined movement patterns increased pain along T10 on the left side of the back.

TREATMENT: Following evaluation on this date, patient was seen for left lumbar manipulation and some PA glides to the lower thoracic and upper lumbar spine from T10 through L2. Patient was also seen for closed technique of the left side to assist with decreasing pain with combined techniques. Patient was educated in a home exercise program for back extension and pelvic rocking. Back extension to be performed x5 repetitions 2 times a day and progress as tolerated and pelvic rocking 3 x10 repetitions with 5-second hold 2 times a day. Today, during physical therapy treatment, patient also performed 10 pelvic tilts combined with a partial sit-up with verbal and manual cues. This was not added to his home exercise program on this date. Discussion of possible use of modalities to assist with decreasing pain and inflammation on his next treatment session. Patient was also educated in proper body mechanics and lifting education to reduce risk for further injury and complications and assist with reducing pain.

ASSESSMENT

GOALS: Short-term goals will be equal to long-term goals, within 2 weeks.

1. Patient will have no pain at all times and will be able to return to work without restrictions or limitations.
2. Patient will be able to demonstrate proper body mechanics and lifting techniques to reduce risk for further injury and complications.
3. Patient will be independent with a stabilization program and strengthening program for the core to assist with reducing pain and assist with reducing risk for further injury and complications.

PLAN: Plan to see patient 3 times a week for the next 2 weeks to progress patient's independent home exercise program for core stability and strength, along with seeing patient for therapeutic exercise, therapeutic activity, manual therapy, and modalities as needed to reduce pain and improve independent function. Patient will also be seen for a workability in the next two weeks.

TIME: Patient was seen for 25 minutes of evaluation, 15 minutes of manual therapy, and 15 minutes of therapeutic exercise.

WSI WINDOW: From May 6, 2010, to June 6, 2010, with 10 treatment sessions available.

(Nicholl Jurgens-Dinius, PT/jh)

D: 05/06/2010 04:00:00 pm

T: 05/06/2010 05:26:47 pm

Medcenter One
Occupational Health Clinic
1531 West Villard
Dickinson, ND 58601
(701) 225-7575

PATIENT NAME: KENNER, LUKE
DOB: 09/02/1986
DATE: 06/07/2010

EMPLOYER: Butler Machinery

DATE OF INJURY: April 28, 2010.

CHIEF COMPLAINT: Low back pain especially on the right.

HISTORY OF PRESENT ILLNESS: This worker states that on Wednesday April 28, 2010 he was working late in the afternoon and was throwing pallets onto a stack. He states he had to lift the pallets above his shoulder height on top of the other pallets. He had some discomfort of his low back but he states it hurt worse the next morning. He did see a chiropractor for this low back pain and got an adjustment but he did not get any work restrictions from the chiropractor. He rates the pain at 1/10 and states that it hurts most when he arches his back and demonstrated the position that causes the 1/10 pain. He also states that he has a little bit of numbness and tingling of his right lower back and foot at times. He has not used any nonsteroidal anti-inflammatories for this injury and has not been using ice or heat to the low back. When questioned why he was not using any analgesics he states "I want to be aware of the pain that he was having in his low back". He states the low back pain and leg pain and numbness come and go. It is not constant. He continues to work. The chiropractic visit was last week either June 2nd or 3rd when he got an adjustment and when questioned by this nurse practitioner what the chiropractor's diagnosis was, the worker states that he was told by Chiropractor "You are really out of adjustment." States he has not been using any icing or heat for two weeks and he did use ice for two to three weeks on previous thoracic injury.

Bull crap

Bull crap

↓
This is
not
correct

PAST MEDICAL HISTORY: This worker states he did have problems with his back the first time he thinks in 2007 when he was living in Fargo and working for Butler Machinery as an excavator. He did see Dr. Rodney Peterson and was treated by the chiropractor three times for this work safety and insurance injury.

SURGICAL HISTORY: Negative.

SOCIAL HISTORY: This 23-year-old single male.

FAMILY HISTORY: Noncontributory.

ALLERGIES: No known drug allergies.

MEDICATIONS: At this time, no routine medications and no medications for this injury.

REVIEW OF SYSTEMS: No complaints of system problems other than the current musculoskeletal injuries and neurologically some numbness of the right leg more so towards the end of the day. The low back pain is "more noticeable if I slouch but not as bad if he sits up straight and was getting worse last week so went to the chiropractor."

PHYSICAL EXAMINATION: Temperature: 98.5. Pulse: 84. Blood pressure: 144/80. He is 71 inches tall. 201 pounds. He rates his pain as 1/10. Patient does not show any gait disturbance. He is able to get up and down from chair without any problem. Straight leg raising is negative. He points to right lower back as area of pain. There is no visible increased redness. No palpable increased warmth. No visible swelling of the area.

DIAGNOSIS: Lumbar/low back pain with intermittent mild numbness and tingling of the right leg and foot.

PLAN OF CARE: Will refer to physical therapy for evaluation of low back pain with associated symptoms. Worker to use over-the-counter nonsteroidal anti-inflammatories with food routinely until seen again in clinic by nurse practitioner. Return to clinic to see nurse practitioner as previously scheduled on June 28, 2010 for other work force safety injury of his thoracic back pain. Patient may return to work with activity restrictions, lower back lifting should be limited to 20 pounds or less, less twisting may be performed for up to 20 minutes per hour, bending may be performed up to 20 minutes per hour. (Laura Sunsdahl, APRN, FNP-BC/jm)

D: 06/13/2010 02:33:00 pm

T: 06/14/2010 02:24:12 am

TO: Luke Kenner

Cc: Bruce Honcharenko

DATE: 07/09/10

RE: Injury Status

Dear Luke,

In talking with WSI, we reviewed your Dr. Notes from Dr. Gregory Peterson and Luke you do have a slight bulging disk, but Dr. Peterson notes indicate there is no serious complications and your injury will heal in time. Since Dr. Peterson is not your primary, he did not issue you out any restrictions or recommend you any physical therapy.

Luke you were officially released from care by Med Center One on June 17th but, Bruce and I still kept you on light duty until your results came back from Dr. Peterson. Per our conversation last week, you are continuing to seek treatment with your chiropractor, and as of today, you can go back to regular duty. However, it has been noted that due to your slightly bulged disk you more prone to back injuries due to your job duties. If you are still experiencing pain, please let Bruce and I know ASAP and I will have Laura at Med Center One refer you to another physician.

I need to remind you as we discussed this last week, the high importance of proper lifting procedures, body/ergonomic mechanics, exercising/back strengthening, and pre-planning job tasks. We also talked about how important it is for you that you take special care of your back and how Butler depends on you to use good judgments and decisions when you are at work and home.

We will need to ease you back into full duty since you have identified back issues. Luke, if you have any situations/job tasks that you question, please contact Bruce or Keith for instructions. Many service technicians encounter difficult lifting situations everyday and we need you to make good decisions. Please let us know if anything changes in your condition.

Thank you for your time and as always, please email me with any questions you may have. Also, I will continue to monitor your situation.

Michelle Freden

Bryan Klipfel
Director



North Dakota
Workforce Safety
& Insurance

Putting Safety to Work

www.WorkforceSafety.com



1600 East Century Avenue, Suite 1
PO Box 5585
Bismarck ND 58506 - 5585

June 11, 2010

Luke Kenner
223 13th Ave W Apt 10
Dickinson ND 58601-6234

Butler Machinery Company
PO Box 9559
Fargo ND 58106-9559

Injured Worker: Luke Kenner
Claim No.: 2010-819588
Body Part: Lumbar Spine, Thoracic Spine

Birth Date: 09/02/1986
Injury Date: 05/04/2010
Acceptance Date: 06/10/2010

NOTICE OF DECISION ACCEPTING CLAIM AND AWARDING BENEFITS

Please read this notice carefully as it may require action within 30 days. This notice is to inform you of Workforce Safety & Insurance's (WSI) decision to award benefits.

WSI has reviewed the file on the above claim and has awarded benefits because:

- * An application for workers' compensation benefits was filed in connection with an injury on the above injury date.
- * On the above injury date, the injured worker was employed by the employer listed above.
- * Medical records indicate that the medical condition relates to the work injury sustained on the above injury date.
- * The evidence shows the injured worker sustained an injury by accident arising out of and in the course of employment.

WSI has accepted the claim for the following ICD-9 (International Classification of Diseases) code(s):

847.1 Thoracic sprain and strain
847.2 Lumbar sprain and strain

Please have the medical provider submit all medical bills related to this injury to WSI for review for payment.

If you feel this decision is incorrect, please write to your claims adjuster within 30 days of the date on this notice to request reconsideration. Please explain why you think the decision is wrong and what you think the correct decision should be. Also enclose any additional information for WSI to consider. The request for reconsideration must be in writing from you, not your physician. If a request for reconsideration is not received within 30 days, this decision will be final. **If you agree with this decision, nothing more is required.**

Sincerely,

Reena S.

Reena S., Claims Adjuster
Bismarck Office

cc: Butler Machinery Company, Laura Sundahl

FL700

Bryan Klipfel
Director



North Dakota
Workforce Safety
& Insurance

Putting Safety to Work

www.WorkforceSafety.com

1 800 366 6888
* 5 2 3 2 7 8 4 5 *

1600 East Century Avenue, Suite 1
PO Box 5585
Bismarck ND 58506 - 5585

June 11, 2010

Luke Kenner
223 13th Ave W Apt 10
Dickinson ND 58601-6234

Butler Machinery Company
PO Box 9559
Fargo ND 58106-9559

Injured Worker: Luke Kenner
Claim No.: 2010-819952
Body Part: Thoracic Spine

Birth Date: 09/02/1986
Injury Date: 04/22/2010

*This is
the correct
Date*

NOTICE OF DECISION DENYING BENEFITS

Please read this notice carefully as it may require action within 30 days. This notice is to inform you of Workforce Safety & Insurance's (WSI) decision to deny benefits.

Your claim for workers' compensation benefits is denied because:

- * Medical treatment was not with the designated medical provider. WSI does not consider medical treatment from a non-designated medical provider.
- * As a result, benefits are not payable. However, if treatment is sought with the designated medical provider within one year of your initial treatment, and you notify WSI, the claim will then be reviewed for compensability.

If you feel this decision is incorrect, please write to your claims adjuster within 30 days of the date on this notice to request reconsideration. Please explain why you think the decision is wrong and what you think the correct decision should be. Also enclose any additional information for WSI to consider. The request for reconsideration must be in writing from you, not your physician. If a request for reconsideration is not received within 30 days, this decision will be final. If you agree with this decision, nothing more is required.

Your personal insurance provider may require a copy of this denial in order to process your request for payment from them.

Sincerely,

Reena S.

Reena S., Claims Adjuster
Bismarck Office

cc: Butler Machinery Company

FL702-5

Aberdeen

120 S Roosevelt Street
Aberdeen, SD 57401
Phone: 605.626.2340
Fax: 605.626.2228
e-mail

Brookings

1310 Main Avenue South, Suite 103
Brookings, SD 57006-3893
Phone: 605.688.4350
Fax: 605.688.6761
e-mail

Hot Springs

2500 Minnekahta Avenue
Hot Springs, SD 57747-1199
Phone: 605.745.5101
Fax: 605.745.6562
e-mail

Huron

2361 Dakota Avenue South
Huron, SD 57350-4334
Phone: 605.353.7155
Fax: 605.353.7305
e-mail

Lake Andes

3rd and Lake Street
Lake Andes, SD 57356
Phone: 605.487.7607 ext. 207 or 212
Fax: 605.487.7429
e-mail

Madison

223 S. Van Eps Ave. Ste 101
Madison, SD 57042-2886
Phone: 605.256.5300
Fax: 605.256.5306
e-mail

Mitchell

1321 North Main Street
Mitchell, SD 57301-1354

Private Ins.

Holly

work comp.
605-773-
3682

Dev Ins.

605-773-
~~3563~~
3563

Patsy

Agent

Average

Code:

8107

Highest 15,200

Ave 11.560

for

$\frac{200,000}{100}$

2,000

\$7.60/per hundred

Annually

Phone: 605.995.8000
Fax: 605.995.8070
e-mail

North Sioux City

City Hall
504 River Drive
North Sioux City, SD 57049-3015
Phone: 605.242.5445
Fax: 605.242.5448
e-mail

Pierre

116 West Missouri Avenue
Pierre, SD 57501-4506
Phone: 605.773.3372
Fax: 605.773.6680
e-mail

Pine Ridge

Physical Address:
Highway 18 East
Airport Access Road

Mailing Address:

P.O. Box 400
Pine Ridge, SD 57770-0400
Phone: 605.867.5843
Fax: 605.867.1884
e-mail

Rapid City

111 New York Street
Rapid City, SD 57701-1832
Phone: 605.394.2296
Fax: 605.394.1824
e-mail

Sioux Falls

811 East 10th Street, Department 41
Sioux Falls, SD 57103-1650
Phone: 605.367.5300
Fax: 605.367.5308
e-mail

my Insurance Score

1B

credit Score +

Ins. Claims Hist.

1A 1B 1C

2A 2B 2C...

All the
to
SC

Connie WSI

Rate Class

WSI's own
code system

Under Writer

→ Under Writing
Dept.

~~8380B~~ Carlen

8380B → WSI

www.workforce
safety.com

Library

Work comp

Rates

Sheets

NCCI
+ m

5.64 / \$5.78 / hundred

Sibleton

205 East Oak

Sibleton, SD 57202-1225

Phone: 605.698.3964

Fax: 605.698.3449

e-mail

Spearfish

1300 North Avenue

Spearfish, SD 57783-1525

Phone: 605.642.6906

Fax: 605.642.6907

e-mail

Vermillion

1024 West Cherry

Vermillion, SD 57069-1742

Phone: 605.677.6900

Fax: 605.677.6909

e-mail

Watertown

2001 9th Avenue SW

Watertown, SD 57201-4029

Phone: 605.882.5131

Fax: 605.882.5152

e-mail

Winner

313 South Main Street

Winner, SD 57580

Phone: 605.842.0474

Fax: 605.842.0165

e-mail

Yankton

3113 Spruce, Suite 124

Yankton, SD 57078-5320

Phone: 605.668.2900

Fax: 605.668.2916

e-mail

Please contact your local FBI office or submit a tip electronically if you have information about:

- Possible acts of terrorism, including violence, funding, or recruitment;
- Persons sympathetic to terrorists or terrorist organizations;
- Suspicious activities that you believe threaten national security, especially suspicious activities that involve foreign powers or foreign organizations;
- Computer crimes or intrusions into computer networks, particularly those associated with national security;
- Corrupt activities in state, local, or federal governments or in law enforcement;
- Racial or hate crimes, human trafficking (involuntary servitude or slavery), or other civil rights crimes;
- Organized crime activities;
- Financial crimes that involve fraud, especially corporate fraud, mortgage fraud, or other investment fraud schemes where significant dollar losses have occurred, including those impacting you or your place of work;
- Fraud in the health care industry;
- Persons who have committed or are planning to commit bank robbery, kidnapping, extortion, or thefts of valuable art, large interstate shipments of goods, or monetary instruments; and Activities of violent gangs.

My Local Field office is:

Minneapolis

FBI Minneapolis

Suite 1100

111 Washington Ave. S.

Minneapolis, Minnesota 55401-2176

(612) - 376-3200

minneapolis.fbi.gov

Snail Mail:

HowStuffWorks.com
One Capital City Plaza
3350 Peachtree Road NE, Suite 1500
Atlanta, GA 30326-1425
404-760-4729

Media Relations:

e-mail us or call 404-926-0621

Advertising:

e-mail us or call 212.548.5555

Editorial:

Visit our Contact Us page and select the Web site and type of feedback or correction from the drop-down menu.

Consumer Guide Products:

Contact Us
7373 N. Cicero Ave
Lincolnwood, IL 60712

Consumer Guide Automotive

Visit our Contact Us page and select "Consumer Guide Auto Questions, Corrections or Feedback."