

## NOTICE OF INDEPENDENT REVIEW DECISION - AMEND

**Date:** November 24, 2003

**RE: MDR Tracking #:** M5-04-0063-01  
**IRO Certificate #:** 5242

FORTE has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to FORTE for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

FORTE has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractor who has a temporary ADL exemption. The Chiropractor has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Clinical History**

It appears the claimant suffered alleged low back injury while lifting and emptying a large container of grease on 11/6/02 during the normal course and scope of her employment as a cafeteria worker with a local independent school district. She has undergone chiropractic care and physical therapy under the direction of \_\_\_\_\_ since 11/7/02 and was certified at maximum medical improvement as of 2/26/03 with 10% whole body impairment rating by \_\_\_\_\_, the treating physician. The claimant received mainly passive care through the end of the year of 2002 and then an active care and aquatic care program was begun. The claimant also saw a medical provider; however, the name of the medical provider is not documented. The claimant also underwent diagnostic ultrasound of the lumbar spine, electrodiagnostic studies and radiographic biomechanical analyses of the lumbar spine x-rays. The electrodiagnostic studies allegedly showed the presence of bilateral L5 and S1 radiculopathy; however, upon my review of the electrodiagnostic studies, the presence of lumbar radiculopathy would be equivocal at best. The claimant demonstrated MRI evidence of the normal amount of degenerative changes that would be expected given this claimant's age of approximately 47 and her weight of approximately 190 pounds. The disc lesions were felt to be noncompressive to the nearby nerve root structures and spinal cord.

### **Requested Service(s)**

The medical necessity of the outpatient services including physical medicine treatment (whirlpool, electrical stimulation, and massage), ultrasound, unlisted therapeutic procedures, kinetic activities, aquatic therapy, electrocardiogram, training in daily activities, and ultrasound from 12/9/02 through 2/21/03.

## **Decision**

I agree with the insurance carrier and find that the services in dispute were not medically necessary.

## **Rationale/Basis for Decision**

The 12/6/02 notation from the unknown medical provider as well as the 12/6/02 chiropractic re-evaluation report revealed that the claimant had sustained much subjective improvement at the time of 12/6/02. Further review of the documentation revealed no change in the claimant's subjective status or objective status beyond 12/6/02. It was at this time of 12/6/02 that an active care program could have been instituted; however, no active care of any kind was documented to have begun until 1/6/03, after the functional capacity exam of 12/31/02 indicated that the claimant could perform at the medium duty work level which was what her employer reportedly required of her. The functional capacity exam of 12/31/02 specifically stated that the claimant could occasionally lift up to 36 pounds, frequently lift up to 23 pounds and constantly lift up to 13 pounds. This places her well into the medium duty level. Whatever lack of condition the claimant had would be related to her obesity and age, not the injury as documented of 11/6/02. Upon my review of the electrodiagnostic studies, the findings were equivocal at best for the presence of lumbar radiculopathy, especially as alleged bilaterally at L5 and S1. There was no electromyogram study done. The nerve conduction velocity studies were normal and there was no evidence of H-reflex problems. At any rate, the findings as documented would not be definitive proof of lumbar radiculopathy at all, especially given the negative MRI findings of neurocompression as well as the overall clinical findings which suggested nonspecific bilateral lumbar radiculopathy. It should also be mentioned that the medical provider who saw the claimant only documented a positive straight leg raise on the right for pain that remained above the knee and did not worsen with ankle dorsiflexion. The chiropractor continued to document a positive, nonspecific bilateral straight leg raise of up to 45°. This just does not make sense given the electrodiagnostic findings, the medical provider findings and the MRI findings. I felt that the MRI findings were normal given the claimant's age and obesity. The documentation strongly suggests that this was a sprain/strain injury only. Passive care beyond 4 weeks would not be considered reasonable or medically necessary, yet this continued for 8 weeks. I would certainly be in support of some active care being rendered; however, this was not rendered until over one month beyond when it should have been rendered. The documentation revealed the claimant had low pain complaints in the 3-4/10 pain level from 12/6/02 onward. The claimant's function as documented on the 12/31/02 functional capacity exam was certainly sufficient enough not to warrant an aquatics based program. The claimant was perfectly capable of participating in land based activities due to her low pain levels and ability to function at the medium duty level. In fact, the claimant should have been returned to work without restrictions as of the functional capacity exam of 12/31/02. The overall treatment to date has been rather excessive and represented overkill given the nature and extent of the injury as documented. Please also consider that the highly evidence based Official Disability Guidelines recommend about 18 chiropractic visits and related physical therapy over a 6-8 week period for disorders of the intervertebral disc and lumbar sprain/strain injury.