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## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** January 3, 2005

**Requester/ Respondent Address:**

TWCC  
Attention: Gail Anderson  
7551 Metro Center Drive, Suite 100, MS-48  
Austin TX 78744-1609

RS Medical  
Fax: 800-929-1930  
Phone: 800-462-6875

Zurich American Ins Co c/o FOL  
Attn:  
Fax: 512-867-1733  
Phone: 512-435-2266

**RE: Injured Worker:**

**MDR Tracking #:** M2-05-0018-01

**IRO Certificate #:** 5242

Forté 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 Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté 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 Chiropractic reviewer who has an ADL certification. The physician reviewer 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.

**Submitted by Requester:**

- RS Medical prescription dated 5/12/04
- Daily chiropractic notes of 5/27/04 and 6/3/04

- Note from the treating chiropractor, Dr. K, dated 6/17/04 to the attention of Dr. D, M.D. This report was essentially an impairment rating report. The claimant was found to be at MMI on this date with 5% whole body impairment rating
- Note of 6/25/04 in regard to use of the RS4i stimulator unit
- Progress note of 6/28/04 from Dr. K, D.C.
- Another RS Medical prescription dated 6/28/04
- Multiple patient usage reports from RS Medical indicating the total amount of treatment which ensued from May through July 2004
- Note from the patient written in Spanish saying that he receives a lot of pain relief from use of the unit

**Submitted by Respondent:**

- Several notations from the law office Flahive, Ogden and Latson regarding the disputed service
- Internet search related article from the Centers for Medicare and Medicaid services regarding accepted usage of neuromuscular electric stimulators
- Section of the ACOEM guidelines, specifically the section regarding use, medical necessity and appropriateness of neuromuscular electric stimulators
- Article entitled “Philadelphia Panel Evidence Based Clinical Practice Guidelines on Selected Rehabilitation Interventions for the Low Back”
- Another Philadelphia Panel Evidence Based Clinical Guideline on Selected Rehabilitation Interventions for neck pain
- Article entitled “Interferential Therapy: Lack of Effect Upon Experimentally Induced Delayed Onset Muscle Soreness”
- Article entitled “An Investigation Into the Analgesic Effects of Different Frequencies of the Amplitude-Modulated Wave of Interferential Current Therapy on Cold Induced Pain in Normal Subjects”
- Article entitled “Electroanalgesia: Its Role in Acute and Chronic Pain Management”
- Article from PT Global.net entitled “The Efficacy of Ultrasound in the Treatment of Musculoskeletal Disorders”
- One page document entitled “Interferential Current Stimulation”
- Note from Medscape entitled “Alteration of Interferential Current in Transcutaneous Electrical Nerve Stimulation Frequencies: Effects on Nerve Excitation”. The conclusion of this article in fact stated that “It is postulated that the medium frequency component of interferential current is the main parameter in stimulation contrary to traditional claims of the amplitude modulated frequency being important. TENS was shown to be a more adaptable method of stimulating these nerve pathways than interferential current.”
- Article entitled “Durable Medical Equipment Section – Electrical Stimulation Devices” This is a simple description of the various electrical stimulation units and devices which was on the market
- Several SOAH documents regarding usage of interferential and muscle stimulation
- Multiple IRO determinations and decisions specifically regarding the RS4i interferential current and electric muscle stimulation combination unit

## **Clinical History**

According to the documentation provided for review, the claimant suffered low back pain while lifting a laundry bag up to his shoulder level. The claimant did not wish to pursue surgical options or injections. He did undergo what appeared to be a successful conservative trial of care with Dr. K and was found to be at MMI with some residuals and impairment rated at 5% as of 6/17/04.

## **Requested Service(s)**

Purchase of an RS4i sequential 4 channel combination interferential and muscle stimulator unit

## **Decision**

I agree with the carrier and find that the unit is not medically necessary

## **Rationale/Basis for Decision**

The documentation in support of the unit contains a letter from the claimant stating that the unit makes him feel better. There is nothing in the documentation that shows that the claimant is better able to retain employment or increases his overall function with use of the unit. There is no evidence of any pain scales showing how the unit affects the claimant's pain. The MMI examination of 6/17/04 by the treating physician, Dr. K, revealed the claimant to be in no acute distress and he had mild tenderness of various muscles. The claimant also demonstrated during a FCE sometime in December 2004 that he was capable of medium duty work which placed him at his pre-injury level of function. There are several statements which seem to suggest that the unit helps the claimant and decreases his pain; however, there is lack of objective data to support that the claimant's pain and muscle spasms have been decreased as has been suggested by the provider. The claimant was released to MMI status on 6/17/04 and was reportedly able to function at his pre-injury level of function, therefore, he should do just as well on a home based exercise program. If the claimant was truly doing this well, as was reported in the 6/17/04 report, then he should be able to do quite well on a home based exercise program. He should not need daily use of this device as this is a passive device and does nothing for the claimant's functional improvement or well being. The name of the game at this stage of the injury is functional improvement and not passive treatment for subjective pain. Multiple research and studies conclude that a home based exercise program is more beneficial at this stage of the injury rather than use of a passive device. Use of a passive device such as the interferential and muscle stimulator unit can produce dependence and this would not be warranted at this stage of the injury. There is also no documentation provided that shows that the stimulator unit or interferential unit was withdrawn at any time to see if the benefits received could be maintained with a regular home based exercise program. There is no specific

documentation to suggest that the claimant's pain medications actually went down. Given his improvement through traditional methods of chiropractic care and physical therapy, he should not be using any pain medications anyway as it appears he has responded quite well and was released at MMI in June 2004.

## YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision,** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

**If disputing other prospective medical necessity (preauthorization) decisions,** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk  
P.O. Box 17787  
Austin, Texas 78744

Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this 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 patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 3<sup>rd</sup> day of January 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: