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NOTICE OF INDEPENDENT REVIEW DECISION

Date: December 8, 2004

Requester/ Respondent Address:

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

Zurich American Ins Co c/o FOL
Attn:
Fax: 512-867-1733
Phone: 512-435-2262

RE: Injured Worker:

MDR Tracking #: M2-05-0398-01

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 an Orthopedic reviewer (who is board certified in orthopedic surgery) 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:

- Review determination 10/19/04
- Notes from Dr. H, M.D.
- Caudal epidural steroid injection 9/22/04
- Lumbar MRI report 9/20/04

Submitted by Respondent:

- Impairment rating exam 10/22/04
- Notes from Dr. S, D.C.
- Notes from Dr. H, M.D.
- MRI report 9/20/04
- Review determination 10/19/04 and 10/27/04
- Notes from Dr. M, D.C.
- Required medical examination Dr. P, M.D. 10/26/04
- Notes from Concentra Physical Therapy
- Notes from Diagnostic Health Institute
- Notes from Dr.L, M.D.
- Notes from Dr A, M.D.
- Chiropractic peer review Dr. O, D.C.

Clinical History

This 42 year old male is complaining of unremitting low back pain and intermittent pain in lower extremities. He has a history of injury at work on ___ moving 100 pound computer boxes. Neurological exam was normal. He did not have any improvement with analgesics, epidural steroid injection, chiropractic and extensive physical therapy. MRI 9/20/04 showed mild disc desiccation at L5-S1 with a 2 mm left paracentral disc protrusion abutting the S1 nerve root, but no compression or displacement of the nerve root. A possible annular fissure was noted.

Requested Service(s)

Lumbar discography with CT to follow at L3-L4, L4-L5, L5-S1 and possibly at L2-3 as control level.

Decision

I agree with insurance carrier that the above requested services are not medically necessary.

Rationale/Basis for Decision

Discography is an invasive procedure that has been shown to be unreliable as a diagnostic tool in the evaluation of low back in the workers' compensation population and in patients with psychological problems. This is documented by the studies by Carragee, et al at Stanford University which were presented in a series of prize winning papers to the North American Spine Society. These were subsequently published in the Journal Spine in 1999 and 2000. Federal Clinical Guideline #14, page 79 finds no clinical value for discography as a diagnostic tool in low back pain patients. There is no reliable documentation in the medical literature to support the use of discography according to Federal Guidelines.

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 8th day of December 2004.

Signature of IRO Employee:

Printed Name of IRO Employee: