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## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** February 10, 2005

**Requester/ Respondent Address:**

TWCC  
7551 Metro Center Drive, Suite 100, MS-48  
Austin, TX 78744-1609

Patrick R. E. Davis, DC  
Fax: 972-283-1800  
Phone: 972-283-9355

American Home Assurance Company c/o FOL  
Attn: Katie Foster  
Fax: 512-867-1733  
Phone: 512-435-2262

**RE: Injured Worker:**

**MDR Tracking #:** M2-05-0662-01

**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 Anesthesiology/Pain Management reviewer (who is board certified in Anesthesiology/Pain Management) 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:**

- MRI of the lumbar spine dated 10/4/04
- Chiropractic notes from Dr. Davis dated 8/27/04

- Treatment summary from 1/31/05
- Office notes from Dr. Willis, 9/16/04, 10/21/04, 11/11/04
- EMG nerve conduction study dated 10/28/04

### **Submitted by Respondent:**

- Legal letters dated 1/10/05, 1/31/05
- Denial letters dated 11/9/04, 11/23/04

### **Clinical History**

The claimant stated that he injured himself on \_\_\_\_\_. The claimant was leaning out the window of a van while driving holding onto a heavy object when he felt a tearing/popping sensation across his back. The claimant did have imaging of the lumbar spine on 10/4/04, which showed no abnormality at L1-2 down to the L3-4 levels. Disc desiccation was seen at L4-5 and L5-S1. There is a 2 to 3 mm generalized disc bulge at L4-5 mildly flattening the central thecal sac. No central spinal stenosis is noted and there is mild bilateral facet hypertrophy resulting in mild to moderate left foraminal narrowing. At the L5-S1 level again a mild generalized disc bulge, 1 to 2 mm, abutting to ventral thecal sac, no spinal stenosis is noted. Mild bilateral facet hypertrophy and mild bilateral foraminal narrowing is identified. An EMG nerve conduction study performed 10/28/04 showed a left L5 radiculopathy, subacute and moderate to severe and possible bilateral S1 nerve root compromise, more on the left than on the right. The claimant had an evaluation by Dr. Willis on 9/16/04. At that time he complained of low back pain radiating into his posterior thighs bilaterally. At his most recent office visit 11/11/04, Dr. Willis requested bilateral facet joint injections at L4-5. This was reviewed by the insurance company and denied on the grounds of lack of adequate trial of conservative treatment and minimal findings by magnetic resonance imaging, therefore, the request for facet joint nerve block is not medically necessary.

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

Prospective medical necessity of injection of anesthetic and steroid into the facet joint/nerve; lumbar/sacral-1 level.

### **Decision**

I feel it is medically reasonable and appropriate to proceed with a facet joint injection at the L4-5 level.

### **Rationale/Basis for Decision**

The reviewing physician states that the MRI showed no evidence of facet arthropathy. This is incorrect. The MRI imaging study that was done 10/4/04 states that there is bilateral facet hypertrophy at both the L4-5 and the L5-S1 levels. The requesting physician, Dr. Willis, in his notes does document: "The patient complains mostly of back posterior thigh pain. Does have tenderness over the facets and has reproduction of his pain with facet rocking." In conclusion, there are symptoms consistent with a facet arthropathy, physical exam findings consistent with facet

arthropathy and also MRI imaging findings consistent with a facet arthropathy. Therefore, the request is both medically reasonable and appropriate.

**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 10<sup>th</sup> day of February 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder