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NOTICE OF INDEPENDENT REVIEW DECISION

Date: February 21, 2005

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

Richard Marks, MD
Attn: Betina
Fax: 972-231-7759
Phone: 972-287-7100

The Hartford
Attn: Barbara Sachse
Fax: 512-343-6836
Phone: 512-343-8310

RE: Injured Worker:
MDR Tracking #: M2-05-0751-01-SS
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 Surgeon 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:

- Medical records of Richard A. Marks, M.D.
- MRI report dated 7/1/04 of lumbar spine
- MRI report dated 4/21/03 of lumbar spine
- Lumbar myelogram with post myelogram CT scan report dated 11/17/04
- Peer review dated 12/27/04
- Appeal peer review dated 1/10/05

Submitted by Respondent:

- IME dated 9/17/04 by Dr. James Hood
- Clinical documents from Bernie L. McCaskill, M.D.
- Clinical documents of Richard A. Marks, M.D., PA

Clinical History

The claimant has a history of chronic back and left leg pain allegedly related to a compensable work injury that occurred on or about ____.

Requested Service(s)

3 level transcutaneous disc resection (TDR) outpatient at L3/4, L4/5 and L5/S1 * at least 1 level @ L5/S1

Decision

I agree with the carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

Generally, diagnosis of neurocompressive lesion includes EMG/NCV studies and contrast radiographic studies correlating clinical symptoms with clearly documented neurocompressive lesion that correlates with electrodiagnostic studies. Upon review of all information sent there is no documentation of a clear pain generator site. MRI report dated 7/1/04 indicates a disc protrusion at L5/S1 with no obvious compression of S1 nerve roots. Also noted on 7/1/04 MRI are nonspecific disc bulging at L4/5 and L3/4. There is no documentation of EMG/NCV study identifying any evidence of radiculopathy. Lumbar myelographic report dated 11/17/04 indicates no definite nerve root compression at L5/S1, no focal disc herniation or nerve root compression at L4/5, and no significant central canal or neuroforaminal stenosis at L3/4. There is no clearly documented neurocompressive lesion at any level of the lumbar spine and there is no objective electrodiagnostic study to correlate clinical symptoms with any of the radiographic findings. Generally, there is documentation provided of exhaustion of all usual and customary conservative measures of treatment prior to consideration of surgical intervention. There is no documentation of exhaustion of conservative measures of treatment including but not limited to oral nonsteroidal and oral corticosteroid medications, bracing and physical therapy emphasizing dynamic spinal stabilization (McKenzie). I strongly recommend continued conservative management in this clinical setting.

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 21st day of February 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder