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NOTICE OF INDEPENDENT REVIEW DECISION

Date: February 14, 2005

Requester/ Respondent Address:

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

Robert LeGrand, MD
Fax: 325-657-0875
Phone: 325-655-4164

TPCIGA for Colonial Casualty
Attn: Daniel Flores
Fax: 512-502-4811
Phone: 512-345-9335

RE: Injured Worker:

MDR Tracking #: M2-05-0782-01

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 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:

- Office and operative notes from Dr. LeGrand
- Myelogram and C-T post myelogram report 12-7-04
- Cervical MRI report 12-2-04

Submitted by Respondent:

- Denial request for surgery 2-3-04
- IME Dr. Foxcroft 4-1-04
- RUR Dr. Culver
- Notes from Dr. LeGrand
- Physical Therapy Notes from Shannon Clinic 7-8-02
- Myelogram and C-T report 12-7-04
- MRI reports 2-2-04 and 2-6-02
- Cervical Flexion extension x-ray report 3-31-03
- Notes from Injury Assistance Center 8-29-03 T. Smith, D.C.

Clinical History

This 62 year old male was involved in an industrial accident on _____. He had complaints of severe cervical and upper extremity pain principally on the left. He did not improve on conservative therapy and on 5-18-02 he had a two level discectomy and fusion at C5 and C6 by Dr. LeGrand. He did not have a successful result and complains of severe cervical pain involving both upper extremities with numbness. He stated he was made worse by the surgery when he was examined by Dr. Foxcroft. His physical examinations do not demonstrate any consistent findings indicating specific nerve root involvement or cervical myelopathy. The flexion/extension cervical x-rays post fusion did not demonstrate any instability at C4-5. The cervical MRI 12-2-04 showed only diffused disc bulging at C4 and unciniate process hypertrophy on the right. The CT myelogram did not show any evidence of disc herniation or nerve root entrapment or spinal cord compression.

Requested Service(s)

Anterior cervical discectomy with fusion and plasty C4-5 and removal of pervious anterior plate

Decision

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

Rationale/Basis for Decision

There are no surgical indicators in this case. There is no evidence of cervical instability on any imaging studies, nor is there evidence of nerve root compromise or spinal cord compromise on any of the imaging studies as interpreted by the radiologists who did the studies. There are no consistent, reproducible physical findings consistent with nerve root involvement or spinal cord compromise. Instead, on the IME exam by Dr. Foxcroft, his examination did not demonstrate any findings that would be physiologically compatible with compromise at the C4 level. Cervical discectomy and fusion is not indicated for patients who do not demonstrate cervical instability or nerve root or spinal cord compromise. The above opinion is rendered within reasonable medical certainty.

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 14th day of February 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder