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NOTICE OF INDEPENDENT REVIEW DECISION

Date: February 28, 2005

Requester/ Respondent Address:

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

RS Medical
Attn: Joe Basham
Fax: 800-929-1930
Phone: 800-462-6875

American Home Assurance Co
Attn: Raina Sims
Fax: 479-273-8792
Phone: 972-389-6600 x 6741

RE: Injured Worker:

MDR Tracking #: M2-05-0835-01

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 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:

- Office notes from Dr. Avila, 11/11/04
- RS Medical prescription dated 8/16/04, 11/12/04
- Letter from Dr. Avila dated 11/1/04

Submitted by Respondent:

- MRI of the cervical spine dated 5/13/03
- MRI of the right shoulder dated 4/7/03
- EMG nerve conduction study dated 5/19/04
- Office notes from Texas Medical Clinic March 2003 through April 2004
- Office notes from Dr. Gonzaba May 2004 through September 2004
- Office notes from Dr. Avila June 2004 through November 2004
- Procedure notes from Dr. Avila of cervical epidural steroid injection 8/25, 10/20, 12/9
- Emergency room notes dated 9/29
- Psychological evaluation with follow up counseling sessions, Dr. Ganc, dated October 2004 through January 2005
- Office notes from Dr. Yankov
- Physical therapy notes from Texas Medical Clinic April 2003 through July 2003
- Denial letter for RS4i stimulator dated 12/2 and denial of appeal 12/10/04

Clinical History

The claimant states she was injured at work when a box fell hitting her on the head and neck. The claimant has had MRI showing disc bulge at C3-4, C4-5, C5-6 and C6-7. These are mild in nature. No disc protrusion was identified and no stenosis was identified. MRI of the right shoulder from April 2003 showed minimal joint effusion, no rotator cuff injury. EMG nerve conduction study from May 2004 showed a mild chronic nerve irritation of the right C4-5 and right C5-6 nerve. The claimant had initial conservative care with no significant benefits. She was referred to Dr. Avila and underwent 3 cervical epidural steroid injections again with no significant benefits. She has had 6 counseling sessions with Dr. Ganc. The claimant has consistently complained of pain between 7 to 9 on a 0 to 10 scale. The claimant was first prescribed the RS4i muscle stimulator on 8/16/04. Verbal analog scores from September, October and November, according to Dr. Avila's notes rates the claimant's pain between 8 to 9/10. Notes from Dr. Ganc from October and November again rate the claimant's pain between 8 to 9/10. The claimant had no decrease in medication over the trial dates and Dr. Avila's note in November stated the claimant's pain medications were to be increased by adding Kadian.

Requested Service(s)

Purchase of a RS4i sequential 4-channel combination inferential and muscle stimulator unit.

Decision

I recommend non-authorization for purchase of the unit.

Rationale/Basis for Decision

The claimant has no documented efficacy that the unit provided any significant decrease in her pain or improvement in functioning. The claimant's pain scores during the trial period continued to be rated at an 8 to 9/10, which is unchanged from the time period prior to this. The claimant's pain medications were not decreased, as a matter of fact, the opposite was true. The claimant was started on more pain medications after the issuing of the unit. The claimant had no documented objective evidence that improved functioning such as range of motion was provided with use of the unit. Therefore no clinical documentation of benefit from the unit exists. There is however, documented evidence that once the

unit was issued the claimant's pain scores did not improve, but stayed the same and her pain medication use increased.

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.

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| <p>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 <u>28th</u> day of <u>February</u> 2005.</p> <p>Signature of IRO Employee:</p> <p>Printed Name of IRO Employee: Denise Schroeder</p> |
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