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Austin, Texas 78752
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NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 14, 2005

Requester/ Respondent Address:

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

Richard R. Francis, MD
Attn: Victor Anaya
Fax: 713-383-7500
Phone: 713-383-7100

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

RE: Injured Worker:
MDR Tracking #: M2-05-0917-01-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 surgery 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:

- Notes from Richard R. Francis, MD
- Reports of facet rhizotomy and facet blocks right and left L3-S1 Dr. Weiss

- Lumbar MRI reports 1-6-04 and 8-11-04
- Report electrodiagnostic studies 8-8-03 and 12-19-03
- Dorsal spine x-ray 4-10-03 report
- CT thoracic spine and lumbar 2-10-03

Submitted by Respondent:

- Legal document from Flahive, Ogden and Latson
- Non authorization letter 12-17-04 and 2-21-05

Clinical History

___ is a 37 year old male who had an industrial injury on ___. The injury involved the fifth and sixth thoracic vertebrae with a burst fracture at the sixth thoracic level. There was no mention of significant lumbar pathology on the computerized tomography done on 2-10-03. He returned to work and was seen by Dr. Francis on 3-26-04 complaining of an exacerbation of lumbar pain while at work. He subsequently had MRI, EMG, and Nerve Conduction studies. The electrodiagnostic studies were normal. The MRI's showed only disc desiccation at L4-5 and facet arthropathy at L5 and S1. He did not respond to conservative treatment. His complaints were mostly subjective and his neurologic exam remained normal.

Requested Service(s)

L4-S1 fusion anterior and posterior with rods and pedicle screws and a post-operative custom TLSO.

Decision

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

Rationale/Basis for Decision

___ has no findings on physical examination or diagnostic studies that would indicate the need for any surgical intervention. There is no evidence of lumbar instability which would be the only finding that would justify fusion for lumbar arthritis, which is the principal finding on the diagnostic studies. There would have to be translation of at least 4.5mm on flexion extension views of the lumbar spine with accompanying clinical findings to justify fusion. Federal Clinical Guideline #14 recommends against lumbar fusion for the above findings as does Milliman and Roberts and The Cochrane Review. The American Academy of Orthopaedic Surgeons-North American Spine Society algorithm for lumbar spine pain contains no indications for fusion in a stable lumbar spine with no neurologic deficits.

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 March 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder