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NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 16, 2005

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

Bionicare Medical Technologies
Attn: Kim Safka
Fax: 888-900-7354
Phone: 888-999-2361

Liberty Mutual Insurance Co c/o Hammerman & Gainer
Attn: Don York
Fax: 512-231-0210
Phone: 512-231-0202

RE: Injured Worker:
MDR Tracking #: M2-05-1038-01
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:

- Clinical documents dated 9/2/04 from the office of Dr. John McConnell
- Clinical documents from Hand and Upper Extremity Center, Dr. Ogunro dated 12/29/03
- Operative report from Medical Arts Surgery Center dated 12/23/03
- Utilization review document dated 1/20/05

Submitted by Respondent:

- Operative report dated 12/23/03 from Medical Arts Surgery Center
- Medical documents from Hand and Upper Extremity Center, Dr. Ogunro dated 12/29/03
- Office records dated 9/2/04 from Dr. John McConnell
- Letter of medical necessity dated 1/31/05 from Bionicare
- Peer review analysis dated 2/1/05 from Dr. F. Daniel Arizi

Clinical History

The claimant has a history of chronic right knee pain allegedly related to a compensable work injury that occurred on or about _____. The claimant underwent operative arthroscopy on 12/23/03.

Requested Service(s)

Purchase of BIO-1000 System

Decision

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

Rationale/Basis for Decision

Generally exhaustion of usual and customary conservative measures of treatment is documented prior to prescription of durable medical equipment. Upon review of all information sent with the IRO request, there is no documentation of exhaustion and usual and customary conservative measures of treatment including but not limited to oral nonsteroidal anti-inflammatory medication, corticosteroid medication, injections, and physical therapy. There is no documentation of a trial of Glucosamine-Chondroitin Sulfate. There is no clinically documented clinical rationale explaining why usual and customary conservative measures of treatment would be any less effective than the requested durable medical equipment. Finally, and importantly, the requested durable medical equipment is not supported in peer reviewed literature utilizing double-blinded controlled studies (evidence-based medicine) to indicate true efficacy in this clinical setting.

Excerpt about the importance of evidence-based medicine (Evidence-Based Medicine: A Framework for Clinical Practice; Edited by Daniel J. Friedland, M.D.)

Evidence-based medicine is a movement that has developed to help us make such decisions with our patients systematically. This movement is represented by a recent profusion of literature and course work in evidence-based medicine and, as described below, has been characterized as a paradigm shift.¹

The **traditional medical paradigm** comprises four assumptions:

1. Individual clinical experience provides the foundation for diagnosis, treatment, and prognosis. The measure of authority is proportional to the weight of individual experience.
2. Pathophysiology provides the foundation for clinical practice.
3. Traditional medical training and common sense are sufficient to enable a physician to evaluate new tests and treatments.
4. Clinical experience and expertise in a given subject area are a sufficient foundation to enable the physician to develop clinical practice guidelines.

The new **evidence-based medicine paradigm** comprises a different set of assumptions:

1. When possible, clinicians use information derived from systematic, reproducible, and unbiased studies to increase their confidence in the true prognosis, efficacy of therapy, and usefulness of diagnostic tests.
2. An understanding of pathophysiology is necessary but insufficient for the practice of clinical medicine.
3. An understanding of certain rules of evidence is necessary to evaluate and apply the medical literature effectively.

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 16th day of March 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder