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NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 31, 2005

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

Janine Miller, DC
Attn: Adriana Valdez
Fax: 214-902-0104
Phone: 214-902-1992

American Home Assurance Co c/o FOL
Attn: Annette Moffett
Fax: 512-867-1733
Phone: 512-435-2266

RE: Injured Worker:
MDR Tracking #: M2-05-1119-01
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 a Chiropractic reviewer 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:

- Texas Work Comp Clinic Office Notes dates 1/5/05-2/23/05

- Office Visit Notes from Richard Keene, M.D. dates 12/15/04 and 2/15/05
- MRI of the lumbar spine from HealthSouth dated 8/16/04
- Request for Reconsideration of Pre-Authorization of Work Hardening Program from Janine Miller, D.C. dated 2/2/05
- Psychology Diagnostic Interview Report from Elias Baron, LPC
- Interim Functional Capacity Evaluation dated 1/7/05 from Konrad Kuenstler, PT
- Physical Therapy Re-Evaluation dated 1/6/05 Konrad Kuenstler, PT
- Initial Functional Capacity Evaluation dated 12/16/04 from Konrad Kuenstler, PT

Submitted by Respondent:

- Pre-Authorization for Work-Hardening dated 1/27/05 from Uni-Med Direct
- Employers First Report of Injury or Illness
- Evaluation Report from Concentra dates 8/12/04-9/9/04 from James Lowell, M.D.
- TWCC 73 from James Lowell, M.D. dates 8/24/04-9/14/04
- MRI of the lumbar spine dated 8/16/04
- TWCC 73 from Janine Miller, D.C. dates 10/1/04-1/11/05
- New Patient Evaluation from Texas Work Comp Clinic
- Office Notes from Texas Work Comp Clinic dates 10/1/04-2/23/05
- Electrodiagnostic Study Report of the lower extremity dated 10/26/04 from Rehabilitation Medical Specialist
- New Patient Consultation dated 11/10/04 from Richard Keene, M.D.
- Physical Therapy Re-Evaluation dates 11/23/04 and 1/6/05 from Konrad Kuenstler, PT
- Re-Examination notes from Richard Keene, M.D. dates 12/15/04-2/15/04
- Initial Functional Capacity Evaluation dated 12/16/04 from Konrad Kuenstler, PT
- Interim Functional Capacity Evaluation dated 1/7/05 from Konrad Kuenstler, PT
- Psychological Diagnostic Interview Report dated 1/11/05 from Elias Baron, LPC
- Physical Therapy Notes dates 9/30/04-2/23/05
- Required Medical Evaluation dated 3/1/05 from Hooman Sedighi, M.D.
- Functional Capacity Evaluation Report dated 3/10/05

Clinical History

___ is a 62 year-old male who injured his low back with radicular symptoms in the right lower extremity as a result of an injury when he was lifting a bag at work. The claimant initially sought care from Concentra Medical Center where he was examined by James Lowell, M.D. who prescribe prescription medication and ordered a MRI of the lumbar spine. The claimant had an MRI of the lumbar spine on 8/16/04 from Healthsouth, which revealed a L4/L5 central protrusion with hypertrophic changes of the facets and ligamentum flavum, which results in mild

spinal stenosis. The L5/S1 disc level revealed a bulge of the annulus and hypertrophic changes of the facets without significant stenosis. The claimant sought treatment from Texas Work Comp Clinic on 9/30/04 Janine Miller, D.C. whose treatments has consisted of joint mobilization with various physiotherapy modalities and active therapeutic exercises. The claimant has also participated in a physical therapy program under the direction of Konrad Kuenstler, PT. The claimant had a Nerve Conduction Study performed on 10/26/04 from Rehabilitation Medical Specialist, which was within normal limits. The claimant had a Functional Capacity Evaluation performed on 3/10/05, which revealed that the claimants current physical demand level is medium.

Requested Service(s)

Work-Hardening Program

Decision

I disagree with the insurance carrier and find that work-hardening program is reasonable and necessary.

Rationale/Basis for Decision

I form this decision using the Functional Capacity Evaluation report dated 3/10/05, which, revealed the claimant's current physical demand level is at medium. The claimant's job requires a medium-heavy physical demand level. It is recommended that the claimant participate in a work-hardening program to allow the claimant to increase his current physical demand level to equal that of which his job requires and decrease the chance of re-injury when he returns to work.

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)).

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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 31st day of March 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder