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NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 24, 2005

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

Jacob Rosenstein, MD
Attn: Cheryl
Fax: 817-465-2775
Phone: 817-467-5551

Texas Association of School Boards
Risk Management Fund
Attn: Jackie Rosga
Fax: 888-777-8272
Phone: 512-467-0222 x 2261

RE: Injured Worker:
MDR Tracking #: M2-05-1147-01
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:

- Clinic note on 1/31/05 from Dr. Rosenstein
- Appeal letter on 2/7/05 from Dr. Rosenstein
- Medical conference letter documenting medical conference with Dr. Cochran on 2/10/05
- Clinic note on 3/2/05 from Dr. Rosenstein

Submitted by Respondent:

- Clinic notes from Dr. Becker, PM&R, on 7/18/01
- Peer review from Dr. Cochran on 8/14/01
- EMG/NCV studies on 6/29/01, 10/10/01
- Pain management notes from Dr. Atlin on 10/24/01
- Neurosurgery clinic notes from Dr. Payne on 6/7/02
- IME of Dr. Willhoite on 8/12/02
- Pain clinic notes on 1/7/03 from Dr. Shaw
- Operative notes from Dr. Guyer on 4/10/03
- Operative notes from Dr. Sachs on 4/11/03
- Peer review from Dr. Kalisky on 3/5/04

Clinical History

On ____, the claimant incurred injury to her cervical spine when she was helping to lift a heavy beverage box and it slipped causing her to catch all the weight. There is a history of prior cervical spinal surgery. In 1996, Dr. Fulp performed C5/6 anterior cervical discectomy and fusion. The documentation becomes unclear. In multiple notes by Dr. Rosenstein, it states that she had her second cervical spine surgery in 2000, however, in the FCE note on 5/30/01, it states that this was performed on February 2001. Her EMGs on 6/29/01 and 10/10/01 showed right acute and chronic multi-radicular process at C8 through T1 and C5 levels. There was a left acute and chronic multi-radicular process of nerve roots at C5 to T1. In 2003 the claimant underwent discogram, which was complicated by post-procedure staph infection, per Dr. Rosenstein. On 4/10/03 Dr. Guyer performed anterior cervical discectomy and fusion with left anterior iliac crest allograft at the C6/7 disc space level with irrigation and debridement of C6/7 epidural abscess. The claimant had increasing pain from a 5/10 to an 8/10 with constant radiation from her neck to her hand. She noted constant right arm numbness and tingling. Her weakness was worsening. Her clinical examination was notable for 4+/5 right interosseous muscle weakness. Her sensory exam showed hypesthesia on the right hand over the small finger. She had positive Tinel's over the right wrist and elbow. Her right hand grip was 40 pounds compared to left hand grip of 70 pounds. Dr. Rosenstein felt the claimant to have exacerbation of right cervical radiculopathy. The claimant's history, again, is status post C5/6 anterior cervical discectomy and fusion in 1996

March 24, 2005

Page 3

with improvement, status post C3/4 anterior cervical discectomy and fusion in either late 2000 or February 2001, without improvement and status post C6/7 anterior cervical discectomy and fusion in 2003 for epidural abscess without improvement and currently she has a C4/5 disc protrusion. On 6/23/04 CT scan of the cervical spine showed focal protrusion at C4/5, solid fusion at C3/4, C5/6 and C6/7.

Requested Service(s)

Repeat bilateral upper extremity EMG/NCV.

Decision

I disagree with the carrier and find that the services in dispute are medically necessary.

Rationale/Basis for Decision

The claimant last had EMG/NCV studies on 10/10/01. The claimant is status post 3 surgeries to her cervical spine. She has recent onset of increasing pain of radiation from her neck to her right arm. She has a history of cervical spine surgery, duration of increasing symptoms, positive clinical exam for interosseous muscle weakness and Tinel's at the right wrist and elbow. For these reasons, the patient is a candidate for repeat EMG/NCV studies of the bilateral upper extremities. The repeat EMG/NCV will be used to compare with the study in 10/10/01 in hope of identify sites of focal neurocompression to explain her worsening symptoms.

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:

March 24, 2005

Page 4

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 24th day of March 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder