



7600 Chevy Chase, Suite 400  
Austin, Texas 78752  
Phone: (512) 371-8100  
Fax: (800) 580-3123

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** April 14, 2005

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

Fort Worth Healthcare Systems  
Attn: Nick Kempisty  
Fax: 214-943-9407  
Phone: 214-943-9431

Ins Co of the State of PA  
Attn: Crystal Miglis  
Fax: 877-538-2248  
Phone: 972-807-4548

**RE: Injured Worker:**  
**MDR Tracking #:** M2-05-1221-01  
**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 psychiatric reviewer (who is board certified in psychiatry) 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:**

- Letters of non-authorization dated 2/8/05, 1/27/05
- A request for reconsideration

- Psychological evaluation from Fort Worth Healthcare Systems
- Evaluation by Dr. Eaton dated 1/19/00
- Evaluation by Dr. Mignocci dated 12/7/98
- Unsigned note dated 11/30/04
- Note from Dr. Eaton dated 6/9/02
- Operative report dated 12/8/00 and 12/15/00
- Partial note from Dr. Eaton dated 1/19/01
- Evaluation from Dr. Enty dated 11/30/04

**Submitted by Respondent:**

- Medical evaluation from Dr. Waggener dated 4/23/04
- Adverse determinations dated 1/27/05 and 2/8/05
- Appeal dated 1/31/05
- Psychological evaluation dated 1/6/05
- 2 operative reports dated 12/8/00 and 12/15/00

**Clinical History**

The claimant reportedly injured her back on \_\_\_ in the course of her duties. She had a prior back injury with surgical correction. She also had a history of depression and hypothyroidism. She had undergone extensive prior treatment including diagnostic procedures, physical therapy, massage, exercise, injections, ultrasound, surgery and individual counseling. She also had Botox injections. Documentation is submitted indicating that she is not a candidate for additional surgery. She had a trial of a spinal cord stimulator. The most recent medical evaluation submitted for review is dated 11/30/04 by Dr. Enty. He also indicates that the claimant has undergone facet injections, nerve conduction studies, selective nerve root blocks, and trigger point injections. She has had a number of different pain medications and muscle relaxers and at the time of the referral to the chronic pain management program was on Lortab - 8 a day, Klonopin – 4 mg over the course of the day, and Prozac-40mg a day. Dr. Enty's diagnosis was failed lumbar surgical syndrome. He refilled her medications and started her on Baclofen. He recommended she follow up with an internal medicine doctor because she had not been taking her medications for her hypothyroidism or hypertension. He indicated that the claimant may benefit from a chronic pain management program. He indicated that he was going to review her records and if he felt it was appropriate, refer to the chronic pain management program. Subsequently, he referred to the program. The program felt that she met the diagnostic criteria for a chronic pain disorder and major depressive disorder, recurrent. They recommended a trial of a chronic pain management program. This was not authorized initially because there was no plan for detoxification off opiates and sedatives, the reviewer felt there was no individualized treatment goals upon which to judge the appropriateness of the claimant's candidacy for the program, and that there is no documentation from the treating physician that the claimant had exhausted all other appropriate forms of treatment for this problem. Furthermore, the reviewer

felt that the claimant should have the hypothyroidism addressed prior to participation in a chronic pain management program. This was appealed. The appeal was not authorized on the basis that depression and possible hypothyroidism are conditions that would preclude a pain program, that there is no time contingent for opiate detoxification, that there is no history and physical from a treating physician or narcotic prescribing physician acknowledging that all treatment has been exhausted and that narcotics will be discontinued.

**Requested Service(s)**

Chronic behavioral pain management program for ten (10) sessions.

**Decision**

I disagree with the carrier and feel that the claimant is a candidate for the ten (10) sessions of the chronic pain management program.

**Rationale/Basis for Decision**

It is clear from the documentation submitted that the claimant has had extensive primary and secondary treatment interventions that have not been successful at alleviating the pain complaints. The non-authorization based on the hypothyroidism and depression is not reasonable. It is common for individuals to have depression as they enter into chronic pain management programs. Depression would be a contraindication if it was so profound that the individual could not participate in the programming or be safely treated as an outpatient. The behavioral observations documented in the records do not suggest the claimant's depression is at that level. Failure of her depression to improve in the program could be rationale for not continuing the program due to lack of effectiveness. Similarly, if an individual had such profound symptoms of hypothyroidism that they could not participate in the pain program, this would be a contraindication; however, this does not appear to be the case with this claimant based on the physical examination that was submitted. Furthermore, the claimant was appropriately referred to have these medical problems addressed, and she had the pain problems even when the hypothyroidism was being treated. Failure to follow-up this problem in a timely fashion by the claimant or failure of the program to ensure it is being addressed could be reason not to continue the program, as it would be an indication of non-compliance by the claimant or that the program was not meeting multidisciplinary standards. The non-authorization was also due to no specific timeline for detox from the opiates and sedatives provided. Weaning of these medications is a treatment goal outlined in the appeal. Individuals in pain management programs are learning tools that will hopefully help them manage their pain and allow for a reduction in the pain medications. Failure of the claimant to make substantive progress toward reduction of her pain medications and sedatives could be justification for not continuing the program due to lack of efficacy.

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## **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 14<sup>th</sup> day of April 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder