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NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 27, 2005

Requester/ Respondent Address:

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

Ronald Linderman, DC
Attn: Melissa Sumerour
Fax: 254-751-1655
Phone: 254-751-1606

TASB Risk Mgmt Fund
Attn: Jackie Rosga
Fax: 888-777-8272
Phone: 512-467-0222 x 2261

RE: Injured Worker:

MDR Tracking #: M2-05-1339-01
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 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:

- MRI report of the lumbar spine dated 10/1/03
- Discography, lumbar spine report dated 6/11/04

- EMG nerve conduction study report by L. I. Multicare Centers dated 8/24/04
- Clinical documents of Dr. Patrick Sindrich, M.D., dated 3/22/04
- Initial evaluation and consultation report dated 8/27/04 by Dr. Less Benson, M.D.
- Clinical documents dated 6/8/04 of Michael Bhatt, D.C.
- Required Medical Exam report dated 11/16/04 by Dr. G. Peter Foom, M.D.
- Clinical document dated 11/11/04 by Peter B. Robinson, M.D.

Submitted by Respondent:

- Carrier's response to request for pre-authorization
- 12/4/03 report of medical evaluation by TWCC Designated Doctor certifying the claimant at MMI with 0% impairment rating
- Peer review of Dr. Michael Bhatt, D.C. dated 6/8/04
- Required Medical Exam report by Dr. G. Peter Foom, M.D., dated 11/16/04
- Lumbar MRI report dated 10/1/03
- Lumbar discography report dated 6/11/04
- Pertinent and historical office notes, physical therapy notes

Clinical History

The claimant has a history of chronic low back pain allegedly related to a compensable injury that occurred on or about _____. The claimant allegedly stumbled into a wall without falling down. The claimant's height is 5'8" and weight 287 pounds. The claimant is a school teacher and does not engage in heavy manual activities requiring repetitive lifting and reaching.

Requested Service(s)

Two (2) day inpatient stay with anterior lumbar interbody fusion, BMP, no segmental pedicle screw L4-5 instrumentation, stealth CT.

Decision

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

Rationale/Basis for Decision

Generally fusion is indicated in the presence of significant motion segment level instability or severe degenerative disc disease with progressive angular deformity following failure of aggressive conservative management. Discography is a confirmatory study in the presence of a significant surgical lesion at a motion segment level when fusion is anticipated. There is no documentation of exhaustion of all conservative measures of treatment. The claimant is morbidly obese and there is no documentation of aggressive weight loss program. There is no documentation of exhaustion of

other modes of conservative treatment including but not limited to oral corticosteroid medications, bracing, physical therapy emphasizing dynamic spinal stabilization and epidural cortisone injections. There is no documentation of a significant surgical lesion at L4-5. MRI indicates "mild" degenerative disc disease at L4-5. There are no flexion/extension views indicating instability at the L4-5 motion segment level. There is no documentation of progressive angular deformity over time. I strongly recommend continued conservative management in this clinical setting.

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 27th day of April 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder