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NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 22, 2005

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

Kenneth Berliner, MD
Attn: Brenda Gonzalez
Fax: 281-875-3285
Phone: 281-875-0830

Health Administration Services
Attn: Jennifer Paver
Fax: 281-873-5328
Phone: 281-873-8682 x 1253

RE: Injured Worker:
MDR Tracking #: M2-05-1340-01
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 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.

Records Submitted:

- Medical records from the treating orthopedist, Dr. Kenneth Berliner, from 2/19/01 until 3/11/05, basically detailing the pre-operative and post-operative clinical picture and request for operating room usage for knee aspiration in anticipation of later arthroscopic evaluation/debridement.
- Independent medical exam from Dr. James Hood of 10/11/04, suggesting work up for possible occult infection.
- Presumed psychiatric consultation by Dr. Lourdes Bosquez of 3/12/01, relative to some post-operative anxiety and depression.
- Denial letters for operating room knee aspiration by Dr. Zvi Kalisky of 1/19/05 and 2/19/05, which basically indicate no need for operating room usage after consideration as well as consultation with Dr. James Hood.
- Operative report for the knee replacement surgery of 3/8/01
- X-ray reports of 10/29/01 and 6/14/04
- Standard technetium bone scans of 11/5/01 and 1/3/05
- WBC labeled bone scan of 12/27/04
- Laboratory reports of 10/22/04
- Article from the Orthopedic Academy Instructional Course Lectures of 1997 relative to management of the patient with an infected knee arthroplasty, supplied by the treating orthopedic surgeon

Clinical History

This review involves a now 53 year old female who has long standing right knee complaints as a result of a job related injury of ____, in which the right knee was struck by a heavy water bucket. While old records are not fully available, she apparently underwent four separate knee arthroscopies by two different orthopedic surgeons, and ultimately underwent total knee replacement on 3/8/01 by yet another orthopedic, her current treating surgeon. While she had a somewhat difficult post-operative course, the clinical picture is that of continued or increasing knee discomfort despite the replacement. The most recent evaluations have centered about possible infection and with consideration of possible arthroscopic intervention for soft tissue impingement, though the complaints are somewhat ill-defined with an initial lateral snapping complaint with more current medial complaints. The current investigations do not apparently suggest knee replacement component loosening or definite infection.

Requested Service(s)

Please address the prospective medical necessity of the proposed right knee aspiration regarding this claimant and specifically in the operating room setting.

Decision

I agree with the carrier that the use of the operating room for aspiration of the right knee arthroplasty services is not medically necessary. The aspiration can be done in the office.

Rationale/Basis for Decision

While I have no problem with aspiration of the questionable knee, which is consistent with the work up for an infected total knee as stated by the treating orthopedist, I can see no reasonable basis to insist that this be done in an operating room. Specifically, I would authorize the aspiration in a simple office setting under “strict aseptic conditions” and with “surgical preparation of the skin” as recommended by the article supplied by the treating orthopedist. Clearly, Dr. Berliner is grossly over reading the recommendations for aseptic techniques. Joint aspiration (or injection) of the knee, including knee replacement joints, are commonly and typically performed in the office setting without difficulty. The quoted article does not suggest operating room aspiration, simply strict attention to technique “to minimize risk of contamination of the specimen with skin flora”. This can be readily achieved with readily available surgical prep materials, common to virtually all orthopedic offices. Absent some unusual features, such as extreme pain/difficult access/or accompanied by a surgical procedure, the request for aspiration does not need the hassle and expense of an operating room. While the proposed arthroscopy faces a definite uncertain outcome, there may be consideration of obtaining the aspiration specimen just prior to the arthroscopy, as the clinical picture, various bone scans, lab work (other than slightly elevated CRP), and x-rays do not suggest infection. Should arthroscopy ultimately be agreed upon, the aspirate could be readily obtained as well as perhaps more useful and reliable tissue samples.

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 22nd day of April 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder