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NOTICE OF INDEPENDENT REVIEW DECISION

Date: May 6, 2005

Requester/ Respondent Address:

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

BHCA, PC
Attn: Cathleen Hammers
Fax: 281-465-8405
Phone: 281-298-7266

Texas Mutual Insurance Co
Attn: Ron Nesbitt
Fax: 512-404-3980
Phone: 512-322-8518

RE: Injured Worker:

MDR Tracking #: M2-05-1364-01
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 psychiatric) 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.

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Submitted by Requester:

- Appeal letter
- Psychological treatment summary
- Treatment notes
- Functional capacity evaluation
- Psychological interview
- Initial narrative report by Dr. Miller and treatment notes by Dr. Miller

Submitted by Respondent:

- Letter from the carrier to the Independent Review Organization
- Pre-authorization denials
- Appeal letter
- Functional capacity evaluation
- Psychological treatment summary
- Psychological clinical interview
- Treatment notes
- Initial narrative report by Dr. Miller
- Program description of chronic pain management program.

Clinical History

The claimant carries the diagnoses of displacement of cervical intervertebral disc without myelopathy, cervicalgia, myalgia and myositis, unspecified lumbago and unspecified derangement of joint related to a workplace injury. He apparently has had medications, adjustments and physical therapy but has reported persistent pain. According to the initial psychological evaluation the claimant is not a candidate for injections though the reason is not specified. He had some initial treatment with individual therapy and biofeedback sessions. According to the treatment summary he was resistant to these interventions insisting that therapy and relaxation training were useless to him and that guided imagery relaxation was for lazy people. He did have a mild decrease in his rating of his depression and anxiety through the course of that treatment despite his noted resistance and rigid cognitions. The behavioral health provider felt he should participate in 6 weeks of their chronic pain management program. This was not authorized by the carrier with the rationale that it was not warranted, that had he failed physical therapy, had psych issues, he had limited response to individual therapy, group therapy and biofeedback therapy and that he needed closure to return to work. This was appealed and the services were not authorized due to the documentation suggesting that the claimant was resistant to psychological interventions and that there was not notable progress in the prior treatment with individual therapy and biofeedback.

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Requested Service(s)

Chronic pain management program eight (8) hours a day, five (5) days a week for six (6) weeks.

Decision

The documentation does not support the medical necessity of the proposed intervention.

Rationale/Basis for Decision

There is a referral from Dr. Miller for psychological evaluation; however, there is not a referral for a chronic pain management program in the records. Furthermore, there are no notes from Dr. Miller, the primary treating provider, that indicate that she feels the claimant is at a tertiary level of care. Given that the injury was approximately a year ago and that the claimant has only been seeing Dr. Miller since August 2004, it is unlikely that the claimant has reached the tertiary level. There is no documentation of a neurosurgical consultation. There is no documented pain management consultation. The only diagnostic studies referenced are of some x-rays being accomplished and possibly MRI's; however, the results are not included for the review. Furthermore, I would note that even if the claimant had exhausted primary and secondary modes of care, he does appear to be resistant to psychological interventions; which would be a relative contraindication to the program. Therefore the request for six full weeks of programming would be excessive. A more reasonable approach would be a trial of 10 sessions with consideration for additional sessions if the claimant is actively participating in programming and making objective progress in the program. Finally, the treatment plan proposed by the chronic pain management program for this individual does not address specific vocational therapy needs that they are going to evaluate. The medication management recommendations are vague and not specific to the individual. Specific endpoints for the physical therapy program such as range of motion goals are not specified. Thus the treatment plan does not appear to be individualized for this claimant.

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 6th day of May 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder