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NOTICE OF INDEPENDENT REVIEW DECISION

Date: May 16, 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

RCH Protect Coop c/o Innovative Risk Mgmt
Attn: Carla Maldonado
Fax: 972-714-0128
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RE: Injured Worker:
MDR Tracking #: M2-05-1578-01
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 Anesthesiologist/Pain Management reviewer (who is board certified in Anesthesiology/Pain Management) 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:

- Office notes from Dr. Rosenstein from 2/21/05 through 4/18/05

Submitted by Respondent:

- MRI of the lumbar spine dated 8/25/03
- CT of the lumbar spine dated 10/2/03
- EMG/NCV study dated 10/2/03
- Office notes from Dr. Rosenstein from 11/10/03 through 3/16/05
- Office notes from Dr. Ray from July 2003 through February 2004
- RME of Dr. Huff dated 4/7/04
- Chart review by Dr. Walters dated 2/19/03
- Chart review by Dr. Singleton dated 2/7/05

Clinical History

The claimant was 31 years old at the time of injury and was employed as a nurse. While at work she was on a step ladder reaching for some supplies when she fell backwards sustaining an injury to her low back. The claimant had multiple studies including MRI, CT scan and EMG/NCV studies which showed a disc herniation at the L4/5 level and acute lumbar radiculopathy. The claimant became pregnant in July 2004. The claimant did not undergo care during the time of her pregnancy, delivered a child by cesarian section in October 2004. In February 2005 she returned to the care of Dr. Rosenstein still complaining of back and left radicular symptoms. The claimant has been recommended for epidural steroid injections. She has other significant disease states including a bleeding disorder requiring use of Warfarin and Plavix.

Requested Service(s)

Lumbar epidural steroid injection

Decision

I disagree with the insurance carrier and find that one lumbar epidural steroid injection is medically necessary.

Rationale/Basis for Decision

The claimant still complains of radicular symptoms. Imaging studies, although old, have shown disc herniations consistent with the claimant's complaints. EMG/NCV studies also showed a radiculopathy on the left side. The request was denied by the reviewing physician stating that because it has been 21 months since the date of injury there may be permanent damage to the nerves and epidural steroid injections would not hold such a condition. He quotes the ACOEM guidelines Chapter 12. Chapter 12 guidelines state that epidural steroid injections are indicated in instances of radicular symptoms. The Official Disability Guidelines also state epidural steroid injections are

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appropriate for patients suffering from radicular symptoms due to disc herniations. In conclusion, the claimant's symptoms, physical exam findings and diagnostic studies point toward a disc herniation causing radicular symptoms and it would be appropriate to attempt an epidural steroid injection in the hope of alleviating these symptoms. Any further injections should only be approved with adequate documentation of significant relief from the first injection.

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 16th day of May 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder