



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

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** May 23, 2005

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

Allied Multicare Centers  
Fax: 254-751-1655  
Phone: 254-751-1606

USF & G c/o FOL  
Attn: Katie Foster  
Fax: 512-867-1733  
Phone: 512-435-2262

**RE: Injured Worker:**  
**MDR Tracking #:** M2-05-1619-01  
**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 Surgeon 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:**

- Records from Allied Muticare Centers
- Records from Les Benson, MD
- Records from Marcial Lewin, MD
- Records from Patrick Cindrich, MD
- Discogram and C-T with contrast 2-21-05 report
- Lumbar epidural steroid injection (ESI) report Hillcrest Medical Center 8-11-04
- MRI report Advanced Medical Imaging 6-7-04
- IME William E. Blair, MD
- Records from Churchill Evaluation Centers Paul Patrick, DO 3-22-05
- Myelogram/CT with contrast report 10-28-04

**Submitted by Respondent:**

- Records from David Schickner, MD
- Evaluation by Paul Patrick, DO
- Discogram report 3-18-05
- Physical Therapy notes beginning 3-17-05
- Psychological evaluation David Koppli, Ph.D
- Records Les Benson, MD
- Records from Patrick Cindrich, MD
- Records Injury & Treatment Center (pain management)
- Lumbar myelogram and C-T with contrast Dennis Parks, MD 10-28-04
- Records from Marcial G. Lewin, MD
- Records from Allied Multicare Center
- Case Review Timothy Fahey, DC
- Report ESI 8-11-04
- IME William E. Blair, MD
- MRI report Allied Medical Imaging
- Records from Flahive & Ogden.
- Records from Genex Services, Inc.

**Clinical History**

This is a 44 year old male who was injured on \_\_\_ while lifting a propane tank weighing 50-60 pounds onto his forklift. He had sudden onset of low back pain and the next day, he awoke with radicular symptoms. He was treated with analgesics and physical therapy. He was initially on limited work but he was taken off work after his chiropractic visit on 6-1-04 and has not returned to work. He continues to complain of severe low back pain with radiation mostly to his left lower

May 23, 2005

Page 3

extremity. His MRI on 6-7-04 indicated mild spondylosis at L4-L5 with a broad asymmetric bulge to the left. There were chronic changes at L5 with mild spondylosis. The myelogram and C-T on 10-28-04 demonstrated no instability on flexion extension views and mild ventral defects at L3-L4. There was also narrowing of the disc space at L5. There was no nerve root compression. The discogram produced pain at L5 and was negative at L4. Dr. Cindrich found weakness in the Quadriceps muscle and a depressed patellar reflex on the left. Dr. Patrick found decreased sensation in L4 distribution but no motor weakness. Dr. Blair found symptom magnification and no findings of radiculopathy or neurologic deficits.

### **Requested Service(s)**

Anterior lumbar interbody fusion at L5-S1 and L4-5 with biomechanical implant using bone morphogenetic protein, posterior laminotomy and L4-5 on left with discectomy and medical facetectomy, arthrodesis at this level, posterior instrumentation L4-S1 with arthrodesis regarding the above-mentioned injured worker

### **Decision**

I agree with the carrier that the services in dispute are not medically necessary.

### **Rationale/Basis for Decision**

There are no clinical indicators for fusion. The findings on the imaging studies are chronic in nature and do not indicate any nerve root compromise or lumbar instability. The findings on physical exam are compatible with L4 root involvement and the discogram is positive at L5 i.e., there is no clinical correlation between the physical findings and the imaging. Carragee at Stanford University has presented multiple studies to the North American Spine Society documenting the unreliability of discography in workmen's compensation and emotional instability cases. The above worker has both. The indications for lumbar fusion are: trauma with unstable fracture, unstable spondylolisthesis, infection with bone destruction, severe spinal stenosis with spinal instability after decompression, and tumor with bone destruction. \_\_\_ has none of the above. Fusion is contraindicated in individuals with chronic changes and no instability, as is present in the case.

References: AHCPR Clinical Guideline #14

Milliman and Roberts: Indications for lumbar fusion

American Academy of Orthopaedic Surgeons-North American Spine Society Algorithm for treatment of low back pain.

May 23, 2005

Page 4

## **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 23<sup>rd</sup> day of May 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder