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## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** June 14, 2005

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

Robert Urrea, MD  
Fax: 915-881-8082  
Phone: 915-881-8264

Dallas Fire Insurance Co c/o Downs & Stanford  
Attn: Jon Grove  
Fax: 214-748-4530  
Phone: 214-748-7900

**RE: Injured Worker:**  
**MDR Tracking #:** M2-05-1753-01  
**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.

### **Submitted by Requester:**

- IRO Paperwork
- Clinical notes, Dr. Urrea (Texas Back & Neck Institute, Providence Memorial Hospital)

- Radiology reports - Lumbar MRI 9/1/04
- Procedure notes by Dr. Urrea

### **Submitted by Respondent:**

- Pre-authorization denial decisions
- Radiology report - MRI 9/1/04
- IRO paperwork
- TWCC Evaluation Report - Kevin Sandberg, M.D.

### **Clinical History**

The claimant is a 51-year-old male injured on \_\_\_\_\_. According to the records, he was pulling a heavy machine when the handles fell off the machine and he fell backwards on his back. Dr. Urrea saw him on 7/5/04. At that time, extension and bilateral sidebending were limited secondary to pain. Dr. Urrea indicated that a lumbar series dated 5/25/04 showed lumbar spondylosis. A lumbar series done on 7/5/04 revealed lumbar spondylosis and a large anterior spur of L1-2 and L2-3. Dr. Urrea's impression was lumbar spondylosis and lumbago. Relafen and Soma were prescribed. On 8/20/04, the claimant returned to Dr. Urrea's office with continued significant lower back pain as well as bilateral lower extremity pain that went posterior to the dorsal aspect of both feet. On exam, the bilateral lower extremity exam was intact. Range of motion was painful.

A lumbar MRI done on 9/1/04 revealed marked degenerative changes of the lumbar spine and discs with numerous disc osteophyte complexes. Mild spinal canal stenosis was also seen at L3-4 and L4-5 due to the broad based disc and marked facet degenerative arthrosis. An evaluation report performed by Dr. Sandberg on 10/20/04 revealed subjective complaints including continued pain primarily in the lumbar region. The claimant also reported some mild numbness and tingling intermittently in both lower extremities. On exam, there was decreased range of motion with guarding and tenderness in the lumbar paraspinal and iliolumbar region with tight underlying muscles. Dr. Sandberg reported that the claimant had a contusion of the lumbar spine, which had resolved. He also reported that the claimant had reached maximum medical improvement and assigned a 5 % whole person impairment.

On 10/18/04, 11/10/04, 11/29/04 and 12/20/04 the claimant returned to Dr. Urrea's office with continued pain. At that time, lumbar facet blocks were discussed. On 12/20/04, the claimant saw Dr. Urrea with continued pain. On exam, he had guarded range of motion secondary to pain. There was a decrease in sensation along the lateral aspect of the right thigh all the way down to the tibia. Patrick's and straight leg raising was positive. An L4-5 epidural injection was recommended.

The claimant had a bilateral L4-5 and L5-S1 facet block performed on 1/18/05. According to a note from Dr. Urrea dated 1/31/05 the claimant had a prior facet block which did not help any of his symptoms and he wished to proceed with a lumbar epidural injection. On exam, range of motion was guarded secondary to pain. He was able to flex down to the mid thighs with pain exacerbations on all of the positions primarily extension and rotation. There was decreased sensation along the lateral aspect of the right thigh all the way down to the mid tibia. On 2/21/05, the claimant returned to Dr. Urrea's office with continued pain. According to Dr. Urrea's 3/21/05 office note the claimant

had received extensive conservative treatment including a back stabilization program, stretching exercises, multiple anti-inflammatory medications, and muscle relaxants. He was noted to have internal disc derangement of especially L4-5 and also had some facet arthropathy of L4-5 and L5-S1. Lumbar epidural injections were reportedly denied and the claimant reportedly wished to proceed with spinal surgery. Soma, Flexeril, and Relafen were prescribed as well as a lumbar discogram. According to Dr. Urrea's 4/13/05 office note, the claimant continued to have chronic low back pain as well as bilateral gluteal pain. The pain not only wakened him up from sleep, but it continued even without exacerbation of movement. On exam, he had guarded and limited range of motion secondary to stiffness. There was pain exacerbation with extension, rotation and lateral bending. The bilateral lower extremities were intact with a positive straight leg raise and Patrick's. The request for a discogram had been denied and a request for reconsideration has been made.

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

Please address prospective medical necessity of the proposed lumbar discogram with CT, regarding the above mentioned injured worker.

### **Decision**

Based on a review of the medical records, the proposed lumbar discogram with CT cannot be recommended as medically necessary.

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

According to the records provided, the claimant has a long history of low back pain as well as bilateral gluteal pain. He has failed conservative treatment consisting of medication, therapy and injections. An MRI revealed degenerative changes with numerous disc osteophytes. Despite, these findings, however, I cannot recommend the proposed discogram as being medically necessary because there is no evidence that it will change the claimant's clinical course in any significant way. The claimant has evidence of discogenic pain and although surgery appears to have been discussed, discography is not a good indicator of surgical candidates. There is no evidence that surgical treatment will lead to any significant further improvement in this claimant's condition and no evidence of how the discogram will change the clinical course or treatment for this claimant. Consequently, I cannot recommend the discogram as being medically necessary.

ACOEM guidelines, Chapter 12, pages 304-305

### **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 14<sup>th</sup> day of June 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder