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## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** June 30, 2005

**Requester/ Respondent Address:** TWCC  
Attention: Rebecca Farless  
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

Sedgwick CMS  
Attn: Tom Busbee  
Fax: 214-849-5109  
Phone: 214-849-5114

**RE: Injured Worker:**  
**MDR Tracking #:** M2-05-1883-01  
**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:**

- Chart note of Dr. Rosenstein dated 4/27/05
- Medical conference note of Dr. Rosenstein with Dr. Milner concerning the claimant note dated 5/6/05
- Medical conference note of Dr. Rosenstein with Dr. Jares dated 5/16/05
- Letter to whom it may concern from Dr. Rosenstein concerning the claimant dated 5/9/05
- Neurodiagnostic tests performed by Dr. Kay on 11/16/04

### **Submitted by Respondent:**

- Neurology Review dated 5/17/05
- Highpoint Pharmacy prescription dated 5/20/03
- Chart notes of Dr. Rosenstein dated 10/15/03, 12/4/03, 12/18/03, 1/12/04, 2/4/04, 3/1/04
- MRI cervical spine report dated 2/19/04
- Right lower extremity electrodiagnostic study dated 1/19/04
- Chart notes of Dr. Rosenstein dated 3/22/04, 4/22/04
- Chart notes of Dr. Faulkner dated 4/9/04, 5/21/04, 6/18/04
- Radiology report dated 9/28/04
- Chart note of Dr. Rosenbloom dated 10/6/04

### **Clinical History**

The claimant is a 47 year old assembler who sustained a work related injury on \_\_\_\_\_. The claimant has undergone other operative intervention including cervical discectomy and fusion in March 2005, right carpal tunnel release and left carpal tunnel release. The claimant underwent left ulnar nerve decompression by Dr. Mycoskie in October 1999. The claimant has been followed (as noted above) by Dr. Rosenstein for approximately 1.75 years based upon the notes that I have reviewed.

As per Dr. Rosenstein's notes, the claimant has recurrent symptoms of pain, tingling, and numbness in the ulnar nerve distribution.

Neurodiagnostic testing by Dr. Kay on 11/16/04 shows the conduction velocity for the ulnar nerve below the elbow is 65 m/s and above the elbow is 53.3 m/s. This was interpreted by Dr. Kay as "Mild left ulnar nerve entrapment neuropathy at the elbow by NCS criteria. There was noted slowing of the motor velocity across the cubital tunnel (there is drop in conduction velocity greater than 10 m/s across the elbow). Motor amplitude is normal across the site of entrapment. Motor and sensory latency is within normal limits. Motor and sensory amplitude are within normal limits. This may represent new injury or incomplete recovery after previous nerve decompression."

Objective examination (based upon Dr. Rosenstein's notes) are positive Tinel's left ulnar nerve, elbow forearm cubital fossa (status post 1999 ulnar nerve transposition). Examination revealed diminished muscle strength in the flexor tendons to the 4<sup>th</sup> and 5<sup>th</sup> fingers with 2/5 strength in the interosseous muscles.

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

Left ulnar transposition at the elbow/forearm

### **Decision**

I disagree with the carrier and find that the requested service is medically necessary.

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

In view of the physical examination and the definitive change noted on the conduction velocity on the 11/16/04 neurodiagnostic test, I recommend approval of the requested left ulnar nerve transposition at the elbow/forearm. The claimant necessitates operative intervention, decompression. The claimant may necessitate partial medial epicondylectomy.

The claimant underwent ulnar nerve decompression with transposition in October 1999. The neurodiagnostic testing of November 2004 does confirm definitive change in the conduction velocity. The clinical examination does show marked signs of weakness in the interosseous muscles. While revision surgery does include an inherent risk compared to the initial operative intervention, I feel that operative intervention in this situation is appropriate and recommended.

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

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder