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NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 15, 2005

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

Robert LeGrand, MD
Fax: 325-657-0875
Phone: 325-655-4164 x 21

Specialty Risk Services
Attn: Delma Rutherford
Fax: 972-807-4848
Phone: 630-692-8299

RE: Injured Worker:
MDR Tracking #: M2-05-1946-01
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:

- Office notes from Dr. LeGrand, Jr.
- CT Myelogram report, 4/29/05
- MRI report, June 2004

Submitted by Respondent:

- Non-authorization rationales
- Office notes, Dr. LeGrand
- Radiology reports

Clinical History

The claimant is a 51 year old male with a diagnosis of lumbar radiculopathy. He had an MRI on 06/16/04 that showed multilevel degenerative change with foraminal stenosis at L4-5 and possibly L5-S1. Treatment with ESI did not improve pain. He then had a myelogram and CT on 04/29/05. The myelogram did not show significant canal stenosis but there was mild effacement of the nerve root sleeves at L3-4 and 4-5. The CT revealed disc bulges and foraminal stenosis at L3-4 and 4-5 on the left with contact of the L5 nerve root. Degenerative changes were noted as well. Dr. LeGrand has requested L4-5 surgery for ongoing low back, bilateral hip and leg pain.

Requested Service(s)

Lumbar laminectomy with fusion and instrumentation at L4/5 and purchase of TSLO back brace

Decision

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

Rationale/Basis for Decision

There is no evidence of any neurologic changes or evidence of stenosis. The claimant has ongoing back and leg pain. There is no evidence of any spinal instability. Due to the lack of instability and frank neurologic changes, there is nothing to suggest that the proposed laminectomy and fusion will lead to any significant further improvement. Patients have not been shown to improve with fusions for purely discogenic pain, which is what this claimant appears to have. The request for TSLO back brace is not medically necessary since the proposed surgery is not recommended as medically necessary.

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 15th day of July 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder