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NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 28, 2005

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

Positive Pain Management
Attn: Heidi Wilson
Fax: 972-487-0192
Phone: 972-272-1633

CMI Barron
Attn: S. Macaulay
Fax: 210-522-9287
Phone: 210-681-6055

RE: Injured Worker:
MDR Tracking #: M2-05-2051-01
IRO Certificate #: IRO 5263

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 a Psychiatric reviewer (who is board certified in Psychiatry) 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:

- Letters of appeal including summaries of a physical performance evaluation and biofeedback
- Prior request for 10 sessions with biofeedback and physical performance evaluation summaries from April and May
- Letter from Dr. Dennis dated 3/11/05
- Treatment notes from Dr. Dennis
- Psychological evaluation
- Initial psychophysiological assessment
- Prescription record
- Appeal of initial request for the chronic pain management program
- Lumbar myelogram
- Lumbar MRI

Submitted by Respondent:

- Surveillance videotape
- Report of the surveillance tape
- Cover letter from the carrier
- Notice of IRO assignment
- Letters of non-authorization and supporting documentation
- Apollo screening criteria
- RUR from Dr. Claghorn
- Request for 10 additional sessions of a chronic pain management program including the physical performance evaluation and biofeedback summary
- Appeal documentation

Clinical History

The patient injured his back in ___ during the course of his duties. He subsequently underwent surgical intervention and extensive conservative care. Over the last few years, the treatment notes reflect chronic pain but a generally stable physical condition. There are records that indicate the patient was found to be noncompliant in a work hardening program in 1999. In September 2004, the patient was referred for a chronic pain management program. The initial evaluation indicated a pain level that was rated at a 7/10, and initial anxiety and depression levels were a 2/10. After 10 sessions the pain level was a 6/10 and depression and anxiety levels were a 2/10. He had made some gains in biofeedback training as well as in his physical functioning. An additional 10 sessions were authorized. After those 10 sessions, his pain level remained a 6/10 and anxiety and depression were a 1/10. It is noted that he is demonstrating effective coping mechanisms, is using his medication less, and increasing his physical activity. The request for the additional 10 sessions was justified initially on a desiring to focus on vocational planning, formulating “action oriented goals” and solidifying the skills he had learned. This was non-authorized based on the opinion that the vocational planning and goal setting should have been accomplished during the entirety of the treatment program. The program appealed indicating the patient was kinesophobic initially on coming into the program and that they felt this warranted

being an exception to the typical duration of 20 sessions. This was not authorized based on similar rationale to the first non-authorization. The video surveillance from June 2005 shows the claimant driving, walking, sitting and using a screwdriver, arising from the sitting position without notable limitation in functioning or evidence of pain behaviors.

Requested Service(s)

Ten additional sessions of a chronic pain management program.

Decision

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

Rationale/Basis for Decision

The patient has completed 20 sessions of a chronic pain management program. This is the general recommended length for a chronic pain management program, although there can be exceptions to this. It appears this patient has made some mild gains within the program in his physical functioning, his anxiety level, depression level, and in his overall pain level. Most of these gains were made during the initial sessions. I concur with the carrier that the vocational planning and the formulation of “action oriented goals,” as was part of the initial rationale for the request for additional sessions, should have been an ongoing component of the program and does not represent an exception to the typically recommended 20 session program. Furthermore, phobic responses are a typical part of chronic pain conditions. Despite the initial phobia, at the time of the request for an additional 10 sessions, the patient is noted by the program to have demonstrated effective coping mechanisms. The video surveillance tape does not suggest guarding or phobic behaviors are persisting. Thus the initial phobic response would not appear to be an exception to the typical 20 session program. Chronic pain management programs are a tertiary level of care that teaches individuals tools through which they can ultimately achieve their therapeutic goals. Rarely are all treatment goals achieved at the time of discharge because the duration of the injuries is typically long such as in this case where the injury is over seven years old. The patient has been exposed to these therapeutic modalities and is evidencing mild improvement and effective coping mechanisms. Given the mild gains after 20 sessions, an additional 10 sessions would be unlikely to result in additional substantive functional gains.

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 28th day of July 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder