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NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 21, 2005

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

David B. Graybill, DO
Attn: Jacqueline Leya
Fax: 817-478-7628
Phone: 817-478-0095 x 105

American Home Assurance Company
Attn: Raina Robinson
Fax: 479-273-8792
Phone: 972-389-6600 x 6741

RE: Injured Worker:
MDR Tracking #: M2-05-2073-01
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 a Anesthesiology/Pain Management reviewer (who is board certified in Anesthesiology/Pain Management) 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:

- MRI of the lumbar spine dated 8/31/01
- Office notes from Dr. Graybill from December 2001 through January 2002 and then again beginning July 2004 through April 2005; included in this are reports of epidural steroid injections done 3/11/05 and 3/18/05
- Letter of reconsideration from Dr. Graybill dated 3/15/05

Submitted by Respondent:

- MRI of the lumbar spine dated 8/31/01
- Office notes from Dr. Roach of 8/22/01
- Office notes of 9/6/01 (I am unable to tell which physician)
- Office notes from Dr. Quatro of 9/13/01
- Office notes from Dr. Becker of 10/1/01, including an EMG/NCV study
- Office notes from Dr. Graybill from January 2002 and then again July through December 2004, including epidural steroid injection notes from 12/18/01, 1/15/02 and 1/22/02
- Summary sheet dated 7/18/05
- Denial letters from 2/10/05, 3/1/05 and a dispute letter from 8/30/04

Clinical History

The claimant states she injured herself in ___ while at work. The claimant was pushing a cart containing baked goods when it became stuck and attempted to catch it as it was tipping over. The claimant complained of pain in the low back, particularly on the left side, with radicular symptoms into the left posterior thigh. An MRI was obtained on 8/31/01 showing multilevel disc desiccation from L1/2 down through L5/S1. Disc space narrowing was seen at L5/S1. A moderate disc bulge was seen at L4/5 and L5/S1. There was a mild disc bulge at L3/4 and minimal disc bulging at L2/3 and L1/2. There was mild intervertebral spurring at all five disc levels. Also identified was a tiny 2mm far right lateral disc protrusion at L3/4, discogenic and facet changes causing mild foraminal narrowing to the left at L4/5 and minimal on the right at L5/S1.

The claimant underwent an EMG/NCV on 10/1/01 which was performed by Dr. Becker and showed normal studies. The claimant did have a series of three epidural steroid injections in the lumbar spine done by Dr. Graybill in December 2001 through January 2002. Follow up notes claim the claimant did get significant alleviation of her symptoms with this treatment. The claimant was then seen again in July 2004 complaining of similar symptoms. Dr. Graybill wished to repeat the epidural steroid injections. There is some documentation that the insurance carrier disputed the need for these as not being compensable to the workers' compensation injury. The limited notes I have state that this was resolved and compensability was determined. The claimant has now had a series of 3 epidural steroid injections done in March 2005, again with documentation showing that her pain has been almost entirely alleviated.

Requested Service(s)

Epidural steroid injection with fluoroscopy and epidurogram under IV sedation

Decision

I disagree with the carrier and find the services in dispute are medically necessary.

Rationale/Basis for Decision

The claimant does suffer from back and left leg symptoms. The symptoms have been considered compensable to the workers' compensation claim from _____. She had a series of injections several years ago which provided her with dramatic relief. It would be reasonable and necessary and meet accepted standards of care to perform another series of injections as her symptoms are compensable to the injury and there is adequate documentation that previous injections did provide her with significant relief allowing her to return to work.

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 21st day of July 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder