



7600 Chevy Chase, Suite 400
Austin, Texas 78752
Phone: (512) 371-8100
Fax: (800) 580-3123

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

RS Medical
Attn: Joe Basham
Fax: 800-929-1930
Phone: 800-462-6875

American Home Assurance Co
Attn: Katie Foster
Fax: 512-867-1733
Phone: 512-435-2266

RE: Injured Worker:

MDR Tracking #: M2-05-2075-01

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 an 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:

- RS Medical prescription dated 2/3/05 and a second one dated 4/28/05
- Follow up evaluation of the RS4i unit dated 3/21/05

- Letter of medical necessity from Dr. David Jones dated 3/28/05
- Usage reports of the RS4i unit dated 6/4/05, 7/18/05
- Rebuttal which shows no date

Submitted by Respondent:

- MRI of the lumbar spine dated 4/30/01
- Plain films of the lumbar spine dated 4/30/01
- Office notes from Dr. Jones; 4 notes from 2001, 6 notes from 2002, 4 notes from 2003, 10 notes from 2004 and 4 notes from 2005 the most recent being 5/26/05
- Office notes including IME and RME from Dr. Smith dated 12/6/01, 5/23/01 and March 2003
- Office notes from psychologist, Dr. Smith, from January 2005
- FCEs from Health Ready dated 1/4/05 and 2/28/05
- Office notes from Health Ready chronic pain management program from January through February 2005
- Pre-authorization denial for the RS4i dated 5/12/05
- RS Medical prescriptions from 2/3/05 and 4/28/05
- Letter of medical necessity dated 3/28/05
- Follow up and usage reports dated 3/21/05, 6/4/05, and 7/18/05
- Article by Glaser et al and advisory review reports from 2/19/03 and 2/23/05

Clinical History

The claimant stated he injured his back while at work. He had imaging via MRI and then plain films which showed degenerative changes of the facets and discs of the lumbar spine. No acute injury was seen such as disc herniation. The claimant has had complaints of low back pain, has had work hardening and most recently a chronic pain management program. The claimant has been maintained on oral medications and at his last visit was on OxyContin 60mg every 12 hours and Soma twice daily. The claimant did have an MMI release on 12/6/04 with a 5% impairment rating. He has been shown to be capable of light duty, but has not returned to any employment to date.

Requested Service(s)

Purchase of a RS4i muscle stimulator

Decision

I agree with the carrier and find that the service in dispute is not medically necessary.

Rationale/Basis for Decision

The medical records do not contain any objective evidence that this treatment modality has provided the claimant with any significant alleviation of his current symptoms. Pain scores are not recorded either before or after the trial. There is no objective evidence that this provides the claimant with any improved functioning as notes from before and after the trial show that the claimant is functioning at about the same level. The notes do not contain any objective evidence that the claimant has been

returned to work with use of the muscle stimulator. There is only a subjective statement by the claimant that the stimulator does provide him with some relief. Unfortunately, that is not enough information to state that this is a medically necessary or appropriate treatment modality. In conclusion, there is no objective evidence that this unit provides any decreased pain, improved functioning, or has returned the claimant 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 28th day of July 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder