



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

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 23, 2005

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

Jacob Rosenstein, MD
Attn: Jennifer
Fax: 817-465-2775
Phone: 817-467-5551

Ins Co of the State of PA c/o FOL
Attn: Katie Foster
Fax: 512-867-1733
Phone: 512-435-2266

RE: Injured Worker:
MDR Tracking #: M2-05-2147-01
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:

- CT/Lumbar Myelogram, 5/19/05
- Office notes from Dr. Rosenstein and his physician assistant Miller from 6/17/05, 5/19/05

Submitted by Respondent:

- MRI of lumbar spine 2/4/04
- CT/Myelogram of the lumbar spine 5/19/05
- Lumbar Discography with follow up CT 1/11/05
- EMG/NCV 3/15/04
- Office notes from Dr. Rosenstein and physician assistant Miller 4/11/05, 5/19/05, 5/27/05, 6/1/05
- Office notes from Dr. Cindrich 10/14/04, 11/29/04, 1/25/05
- Office notes from Dr. Scott 11/4/03, 11/18/03, 12/9/03, 1/1/04, 1/23/04, 2/6/04
- RME Dr. Ochoa 5/2/05
- RME Dr. Kirk 7/26/04, 12/28/04
- Independent Medical Exam Dr. Blair 8/2/04
- Chiropractic Notes Dr. Mordecai March 2004 through April 2005 Total of 78 office visits
- Physical Therapy notes from Hill Crest Baptist 16 visits November 2003 through December 2003
- Physical Therapy through Injury One treatments centers total of 21 visits March 2004 through April 2004
- Work Hardening Program 13 visits November 2004 through December 2004
- Chronic Pain Management Program Injury One treatment center April through May 2005 total of 8 visits
- 3 Letters for Pre-Authorization June 2005
- Psychological Evaluation with functional capacity exam 11/9/04

Clinical History

The claimant states she injured her back while attempting to put a vacuum bag on her back on _____. The claimant had an initial evaluation with Dr. Scott. The claimant went through physical therapy. No significant abnormalities were seen with diagnostic studies. The claimant was released back to full duty. The claimant then started seeing Dr. Mordecai, and has had extensive therapy, chiropractic manipulation, work hardening program, chronic pain management program, over the time period of March 2004 through May 2005. No significant benefit has been gained to this claimant. The claimant still rates back pain 6-7 over 10. Also has some bilateral lower extremity pain. The claimant had an evaluation with a surgeon who recommended a disc resection. The claimant did not have surgery. All imagining studies have shown no significant abnormality, including a normal discogram, a normal CT/Myelogram, an MRI showing a very mild lateral disc bulge. EMG/NCV studies were reported as normal in March 2004. The claimant underwent an epidural steroid injection with no significant improvement of symptomatology. The claimant has been recommended for light sedentary type work by multiple physicians, but has not returned to work according to the notes I have. Physical exam findings have shown no significant neurological

defects. The claimant has had a varied lumbar range of motion exam, anywhere from full range of motion to very limited range of motion. There has also been positive Wadell signs at times, mention of psychological factors impacting on the claimants overall symptomatology.

Requested Service(s)

L3-S1 bilateral facet injections with x-ray

Decision

I agree with the insurance carrier and find the services in dispute are not medically necessary.

Rationale/Basis for Decision

The mechanism of injury would be inconsistent with a facet injury, and more likely to have caused a soft tissue injury or disc problem. A disc abnormality has been ruled out as a discogram showed normal appearance with no pain. Imaging studies and diagnostic studies have not shown any significant abnormality. The claimant has had extensive physical therapy, chiropractic manipulation, work hardening and a chronic pain management program, with no significant improvement in her symptomatology. A facet arthropathy should respond at least minimally to this, which has not been the case. The claimant's physical exam over the almost 2 years since her injury have been very inconsistent. At times she has demonstrated full range of motion without pain, at other times severely limited range of motion. There has been questionable psychological overlay, with positive Wadell signs. The current treating physician has not adequately demonstrated the medical necessity for the above request.

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 23rd day of August 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder