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NOTICE OF INDEPENDENT REVIEW DECISION

Date: September 20, 2005

Requester/ Respondent Address:

DWC
Attention: Gloria Covarrubias
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-1609

Buena Vista Workskills
Attn: James Odom
Fax: 214-692-6670
Phone: 214-692-6666 x 306

Zurich American Ins Corp/The Hartford SRS
Attn: Crystal Miglis
Fax: 877-538-2248
Phone: 972-807-4833

RE: Injured Worker:

MDR Tracking #: M2-05-2225-01
IRO Certificate #: IRO 5263

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Division of Workers' Compensation (DWC) at the Texas Department of Insurance has assigned the above referenced case to Forté for independent review in accordance with DWC 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 Psychologist reviewer. 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:

- Request for medical dispute resolution
- Requester's position regarding pre-authorization
- Medical records from Hill Country Behavioral Health and Pain Management
- Pre-authorization request of 6/7/05 for individual psychotherapy (IPT) once per week for 6 weeks
- Denial letter from The Hartford of 6/8/05
- Request for reconsideration of IPT of 6/21/05
- Denial letter from The Hartford dated 6/23/05
- Behavioral medicine re-evaluation of 5/27/05
- Interdisciplinary chronic pain management program notes
- Behavioral medicine update of 4/20/04
- IPT and biofeedback notes from 11/22/02 to 2/27/03
- Medical records from Alpine Healthcare, LLP
- Ergos evaluation summary report
- Medical records from Interventional Surgical Care, LP
- Medical records from South Texas Pain Center
- Medical records from Gerardo Zavala, M.D.
- Medical records from Donald Dutra, M.D.
- Records from Sendero Imaging and Treatment Center
- Computerized spinal range of motion examination of 10/28/04
- Notification of MMI/first impairment rating benefit payment of 12/20/04
- TWCC-69 dated 12/4/04
- Designated doctor examination from Manoucheehr Refaelan, M.D. of 12/4/04

Submitted by Respondent:

- Notice of IRO Assignment of 8/24/05
- Request for medical dispute resolution of 8/15/05
- Requester's position regarding pre-authorization of 7/28/05
- Request for reconsideration of IPT of 6/21/05
- Behavioral medicine re-evaluation of 5/27/05
- Records from Sendero Imaging and Treatment Center of 8/14/02
- Medical records from Interventional Surgical Care, LP of 6/9/04
- Request for pre-authorization of IPT of 6/7/05

Clinical History

The claimant was injured while performing her duties for Hilton Incorporated on _____. While cleaning a bathroom floor, she reportedly slipped and fell onto a toilet. She attempted to continue working, although she reports she had immediate back pain. She reported the injury the following day. The records provided indicate that the claimant has received multiple primary, secondary and tertiary levels of evaluation and treatment. This includes low back surgery on

3/11/03, numerous injections, IPT, biofeedback, work hardening programs, and 10 sessions of a chronic pain management program. She reportedly has been evaluated by Dr. Garza-Vale and he has recommended back surgery at L4/5. The surgery, however, has not been authorized by the carrier.

Requested Service(s)

Individual psychotherapy once per week for six weeks

Decision

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

Rationale/Basis for Decision

The claimant has received 13 sessions of IPT and 13 sessions of biofeedback. She has also received 10 sessions of a chronic pain management program and continuation of the program was denied due to lack of progress. Objective measures of changes in levels of depression and anxiety for which the IPT is recommended, have not improved. The claimant continues to have severe levels of anxiety and depression which have not been helped by any of the behavioral interventions that have been attempted. The lack of medical necessity is due to the potential lack of effectiveness. The requested treatment has been tried on 2 occasions previously and has failed. An intensive tertiary program, which had a better potential outcome, was also tried and failed. Therefore, the medical necessity for the repetition of an ineffective treatment cannot be supported.

YOUR RIGHT TO APPEAL

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

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 DWC via facsimile or U.S. Postal Service from the office of the IRO on this 20th day of September 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder