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NOTICE OF INDEPENDENT REVIEW DECISION

Date: September 19, 2005

Requester/ Respondent Address:

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

Larry Kjeldgaard, DO
Fax: 817-283-5283
Phone: 817-283-5252

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

RE: Injured Worker:

MDR Tracking #: M2-05-2261-01
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 an Orthopedic Surgeon reviewer (who is board certified in Orthopedic Surgery) 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 report of the cervical spine dated 1/14/05 from Nydk Open MRI of America
- Medical records of Trinity Orthopedics, PA

Submitted by Respondent:

- Medical records of Texas Back Institute – Hurst
- Medical records of Eric J. Cologado, M.D., PA
- Medical records of Ved V. Aggarwal, M.D.
- Medical records of Trinity Orthopedics, PA
- MRI report of the cervical spine dated 1/14/05 from Nydk Open MRI of America
- MRI of right shoulder report dated 10/19/04 from Nydk Open MRI of America
- Medical records of Walls Regional Hospital emergency department dated 10/18/04
- Medical records of CareNow dated 10/5/04
- Initial peer review dated 6/23/05 from Unimed Direct, LLC
- Appeal of adverse determination dated 7/13/05 from Unimed Direct, LLC

Clinical History

The claimant has a history of chronic neck and shoulder pain allegedly related to a compensable injury that occurred on or about _____. Initial report of injury indicates blunt trauma to the shoulder while employed in a department store in the mens/boys wear department.

Requested Service(s)

Anterior cervical discectomy with interbody fusion at C4/5 and C5/6

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

Generally discectomy and fusion of the cervical spine are indicated in the presence of painful radiculopathy and/or motion segment level instability. Upon review of all information provided, there is no documentation of radiculopathy or motion segment level instability to indicate the medical necessity of discectomy and fusion. EMG/NCV report dated 4/20/05 documents no EMG/NCV study findings supporting the diagnosis of radiculopathy. Clinical impression at that time was a cervical contusion on the right with cervicalgia and a chronic pain syndrome. An MRI report of the cervical spine indicates mild indentation of the cord at C4/5 with no foraminal encroachment. There is no documentation of flexion/extension views to indicate any motion segment level instability in the cervical spine. I strongly recommend continued conservative treatment for the symptomatic management of the claimant's clinical condition.

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 19th day of September 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder