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NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 4, 2003

Requester/ Respondent Address : TWCC
4000 South IH-35, MS-48
Austin, Texas 78704-7491

RE: Injured Worker:
MDR Tracking #: M5-03-1301-01
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 Chiropractic physician reviewer. The Chiropractic 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.

Clinical History

The claimant suffered alleged low back pain after lifting a truck tire wheel overhead on or about 7/___/01. The claimant reportedly saw a physician, who was reportedly the company doctor, and was diagnosed with lumbar strain injury. The claimant initially complained of some low back pain with some left lower extremity radicular pain to his foot. It was reported the claimant did have a past medical history of a low back injury that resulted in the need for about 3 months of physical therapy. This past low back injury reportedly occurred in about 1999. Some initial physical therapy from the 7/6/01 above mentioned date of injury occurred from 7/17/01 through 8/10/01. The claimant saw a chiropractor on 10/12/01 because he was still having trouble with his low back and left leg. The claimant received chiropractic treatment from 10/12/01 through July 2002. The overall documentation revealed the claimant's subjective pain actually went up over time and did not really decrease until he received some epidural steroid injections in April

April 4, 2003

Page 2

through July 2002. There may have been a gap in treatment from 12/24/01 through 1/16/02. It appears the claimant was also involved in a car accident which reportedly caused just neck and mid-back pain on 10/26/01. A letter of 3/19/03 from the chiropractor is reviewed. The claimant underwent epidural steroid injections on 4/22/02, 5/20/02 and 7/15/02. All of these reports are reviewed. It appears the claimant underwent right sided epidural steroid injections on 4/22/02 and the remaining epidural steroid injections occurred on the left side. The claimant appeared to appreciate better and more sustained benefit from the left sided epidural steroid injections. The lumbar MRI and electrodiagnostic studies and reports are reviewed. Multiple daily chiropractic notes are reviewed. It appears the claimant had to undergo a benefit review conference so there were some administrative problems associated with this case and this may have resulted in the prolonged amount of treatment and the relatively long distance between interventional procedures. Beyond 2/6/02 the claimant appeared to see the chiropractor only once a week in order to help prevent digression and maintain some conditioning of the claimant's condition. The chiropractic care increased in frequency after the claimant underwent epidural steroid injections beginning on 4/22/02. The claimant mainly seemed to have left sided radicular symptoms and signs. A TENS unit was dispensed on 3/27/02. The claimant underwent epidural steroid injections with another physician. The claimant's response to the first epidural steroid injection was not very good in my opinion. The second and third injections proved to be of a little better benefit; however, the claimant ended up failing conservative care options and finally underwent what appeared to be a posterior interbody fusion at 2 levels from L4 through S1 in early December 2002. The claimant saw another physician for this procedure. The claimant also underwent a discogram and post discogram CT scan prior to surgery and these results and findings are reviewed. The claimant was taken off work completely by 9/5/02 and, as you know, eventually underwent surgery in early December 2002. A final follow up with this physician of 12/19/02 revealed that the claimant was recommended to continue his walking program.

Requested Service(s)

Please review and address the medical necessity of the outpatient services rendered from 2/4/02 through 9/5/02 to include chiropractic office visits and physical therapy.

Decision

I agree with the insurance carrier that the passive modality treatments which were provided from 2/4/02 through 5/22/02 were not reasonable or medically necessary. These codes included 97014, 97035 and 97124. I disagree with the insurance carrier and find that the active care modalities and chiropractic related office visits which were rendered from 3/4/02 through 9/5/02 were reasonable and medically necessary. These services include all of the office visit codes which are of the 99210 variety as well as the 97250 and 97110 codes.

Rationale/Basis for Decision

The documentation revealed that the claimant had undergone some initial physical therapy from 7/17/01 through 8/10/01 and then more passive and active physical therapy with the chiropractor from about 10/12/01 through 7/22/02. It is my opinion that, although a reasonable effort was made by the chiropractor to keep this claimant comfortable until more aggressive options could be tried via epidural steroid injections, etc., passive care is and was not indicated beyond the initial stages of the injury. The prevailing medical literature and treatment guidelines do not support the need for passive care modality treatment beyond 2-4 weeks post injury and/or unless an expected and well documented acute flare up is documented. Also the claimant could have used heat and ice as needed at home. It was also documented the claimant was able to retain some light duty work for quite some time and this would indicate that passive care was not indicated as long as the claimant was able to retain employment. More of an effort should have been made for more functional restoration and passive care was really not indicated from 2/4/02 onward. Once it was made known to the chiropractor that conservative care options were not significantly progressing this claimant's condition, he appropriately decreased the frequency of the chiropractic office visits and referred the claimant for epidural steroid injections and further pain management. In my opinion the active care and the office visits that were administered from 2/4/02 through 4/10/02 at about once per week were appropriate to keep the claimant from digressing, and to further monitor his condition, and to coordinate care as well as to keep the claimant reasonably employed at the light duty level. There was an appropriate increase in frequency and type of treatment once the epidural steroid injections were rendered in April 2002. It appears the claimant underwent approximately 6 visits as part of a post epidural steroid injection physical therapy program. A 6 visit post epidural steroid injection physical therapy program is considered reasonable and customary in the medical community; however, I saw no need for ongoing passive care/modality treatment in that obviously the claimant had undergone exhaustive amounts of passive physical therapy modality treatment.

This decision by the IRO is deemed to be a TWCC decision and order.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this

4th day of April 2003.

Signature of IRO Employee:

Printed Name of IRO Employee: