NOTICE OF INDEPENDENT REVIEW DECISION **AMENDED LETTER**
NOTE: MDR Tracking #

October 24, 2002

RE: MDR Tracking #: M2-03-0031-01
IRO Certificate #: 4326

___ 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 ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___ health care professional 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

This 44 year old female sustained a work related injury on ___ while working as a bus driver. The patient was tilting a seat when she experienced low back pain. An MRI was performed on the lumbar spine on 11/27/01, which indicated an L4-5 right posterolateral annular tear and mid foraminal narrowing. Also indicated was an L5-S1 posterior disc bulge with mild foraminal narrowing. Electrodiagnostic evaluation of the lower extremity on 02/06/02 indicated a mild to moderate left-sided L5 radiculopathy. A functional capacity evaluation (FCE) was performed on 11/02/01, which indicated that the patient was functioning at a light physical demand level. Ranges of motion performed on 11/02/01 of the lumbar spine were severely restricted. A follow-up FCE was performed on 02/15/02, which indicated a 3% whole person improvement due to ranges of motion increases. Also indicated during this FCE on 02/15/02 were decreases in static lifting for lower extremity tasks. The physical demand level for 01/15/02 was listed as light, which is the same as that listed on the previous FCE. Ranges of motion demonstrated during the FCE on 02/15/02 revealed dramatic improvement with most values approaching normal. A third FCE was performed on 04/18/02 and the physical demand level was indicated as light to medium.

Additionally, ranges of motion were at or near normal values as demonstrated during the FCE. A designated doctor examination was performed on 07/16/02, which indicated that the patient was at maximum medical improvement (MMI) and was assigned a 5% whole person impairment due to the low back injury of ___. Included in the report from the designated doctor examination, was a score of 0 in the non-organic physical signs by Waddell, which would be used to assess psychological complications and/or symptom magnification.

Requested Service(s)

A daily work hardening program for 6 weeks.

Decision

It is determined that the daily work hardening program for 6 weeks is not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical record documentation fails to substantiate the necessity for the requested services. This patient has been afforded an extensive amount of active physical care including standard active care and formal multi-disciplinary work hardening. Through the course of the 3 FCE's very little overall progress is noted as the patient tested in the light physical demand category for the first FCE, in the light physical demand category for the second and in the light-medium category for the third FCE. This would indicate that the active care rendered has not been particularly efficacious and has not yielded progress that would be beyond what would be expected from the natural history of this condition. The only sign of progress throughout this course of care has been increasing and normalizing ranges of motion. Lifting tasks have either remained the same or decreased throughout the course of care. In addition, there is a lack of identified psychological complaints that would make this request appropriate. Typical work hardening programs have within their make-up, a large psychological component to address lingering or developing psychological issues that sometimes accompany long-standing conditions. There is no indication within the documentation that any psychological concern has been raised. Therefore, in view of the extensive amount of care provided with little or no progress in lifting function, the proposed work hardening program is not medically necessary to treat this patient 's condition.

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

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** (10) days of your receipt of this decision (20 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) days of your receipt of this decision (28 Tex. Admin Code 148.3).

This Decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin Code 102.4(h) or 102.5(d)). A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Workers' Compensation Commission, P.O. Box 40669, Austin, Texas, 78704-0012. **A copy of this decision should be attached to the request.**

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute (Commission Rule 133.308 (t)(2)).

Sincerely,