November 20, 2002

Re: Medical Dispute Resolution
MDR #: M2.03.0174.01.SS
IRO Certificate No.: IRO 5055

Dear

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to ___ for an independent review. ___ has performed an independent review of the medical records to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is Board Certified in Orthopedic Surgery.

Clinical History:
This male claimant was 38 years old when he injured his back on his job on ___. He was followed by several doctors and worked up in 2001, with functional capacity evaluation showing he was unable to work at a job with heavy job requirements.

A CT myelogram showed a bulging annulus at L5-S1, spondylolisthesis at L5-S1, and some spondylosis at L4-5. On 09/18/01, one surgeon suggested surgery, but the patient was reluctant to have surgery. The records reflect an epidural steroid injection on 02/18/02, which was, apparently, unsuccessful. The patient was declared MMI on 02/22/02. He presented to another spine surgeon and surgery was planned for a two-level anterior-posterior fusion at L4-5 and L5-S1. The exact status of his condition at that time is unclear.

Disputed Services:
Post lumbar fusion, post lateral fusion, post-lumbar interbody fusion, and post non-seg instrumentation.

Decision:
The reviewer agrees with the determination of the insurance carrier. The reviewer is of the opinion that the requested procedures are not medically necessary in this case.

Rationale for Decision:
Based on the medical documentation provided, it is unclear what the claimant's exact medical status is at this time, relative to the amount of

discomfort and disability. The record does not state whether the claimant described receiving conservative treatment, including any type of modalities, types of medication, etc. One would assume that if he were in severe discomfort relative to his back, this would be reflected in the notes from the surgeon prior to scheduling a procedure of this magnitude. The prognosis for successful elimination of back pain with a two-level fusion is guarded.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by ___ is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this 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 ten (10) days** of your receipt of this decision (28 Tex. Admin. Code 142.5©).

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

This Decision is deemed received by you **five (5) days** after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission
P.O. Box 40669
Austin, TX 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.

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on November 20, 2002.

Sincerely,