January 31, 2003

Re: Medical Dispute Resolution
MDR #: M2.03.0404.01
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 Certified in Chiropractic Medicine.

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.

Clinical History:
This male claimant injured his right shoulder and cervical region while on his job on ___. Conservative applications were initiated on 08/12/02.

MR imaging of the cervical spin on 09/06/02 revealed C3-C4 focal right paracentral and foraminal disc herniation, noting flattening of the right C-4 nerve root with mild narrowing of the right neuroforamina. MR imaging on 09/06/02 of the right shoulder revealed a full-thickness tear measuring 12 mm x 6 mm.

Surgical applications that included an arthroscopy with rotator cuff repair and distal clavicle excision were performed on or about 10/14/02. The patient was advised to remain in a sling for six weeks.

Disputed Services:
Neuromuscular Stimulator (DME).

Decision:
The reviewer disagrees with the determination of the insurance carrier. The reviewer is of the opinion that the device in question is medically necessary in this case.

Rationale for Decision:
It is obvious that the patient has a full-thickness tear of the rotator cuff and, thus, there would be pre-operative atrophy of the torn musculature due to disuse. In addition, the patient was instructed to keep the right shoulder in a sling for six weeks following the surgery. Six weeks of immobilization will allow sufficient postoperative atrophy.

Sufficient evidence has been provided that the application of the neuromuscular stimulator would prevent the full effect of pre-operative and post-operative disuse atrophy. In addition, the neuromuscular stimulator units have been shown to have positive effects with pain modulation. Based on these industry-accepted characteristics of neuromuscular stimulators, I believe that the application of this product is medically necessary.

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 January 31, 2003.

Sincerely,