NOTICE OF INDEPENDENT REVIEW DECISION

November 24, 2003

RE: MDR Tracking #: M2-04-0334-01
IRO Certificate #: IRO4326

___ 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. ___'S 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 patient sustained a bimalleolar fracture on ___ while restraining a juvenile inmate. She underwent surgery for open reduction and internal fixation of the right distal tibia and fibula fractures on 11/15/02. She attended physical therapy for rehabilitation but continues to have pain in her ankle and some depression from this.

Requested Service(s)
Individual counseling for six sessions

Decision
It is determined that the proposed individual counseling for six sessions is medically necessary to treat this patient's condition.

Rationale/Basis for Decision
The medical records provided show that the patient continued to show functional deficits from her injury during the last sessions of physical therapy. Range of motion (ROM)/functional deficits were again noted in the 03/17/03 designated doctor examination (DDE) in which the patient showed 10-15 degree deficits of function in all planes of motion tested, yet was placed at maximum medical improvement (MMI) and assigned whole person impairment of 0%.

The rationale that these deficits will most likely improve over time is plausible with a certain percentage of the population, not with an obese 22-year-old female that requires a high degree of function given the likelihood of imminent physical confrontations in her field of work.

It is evident that the patient's condition is not improving with time, thus inferior coping strategies have developed and are complicating the patient's path to a functional recovery. The proposed counseling sessions must have an adequate baseline of mental functioning established so that upon completing the sessions an additional test can be rendered to determine the efficacy of the applied therapy. A failure to perform pre and post resting will result in a statistically ineffective analysis of gathered date. Therefore, it is determined that the proposed individual counseling for six sessions is medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- Chun DJ, et al. *Physical therapy rehabilitation on the ankle.* Clin Podiatr Med Surg. 2002 Apr;19(2):319-34,vii.

- *Clinical guideline on ankle injury.* American Academy of Orthopedic Surgeon's; 1997. 7p.

- *Clinical practice guidelines for chronic, non-malignant pain syndrome patients II: An evidence-based approach.* J Back Musculoskeletal Rehabil 1999 Jan 1; 13; 47-58.

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** (ten) calendar days of your receipt of this decision (28 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) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for hearing and a **copy of this decision** must be sent to: Chief Clerk of Proceedings/Appeals Clerk, Texas Workers' Compensation Commission, 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 all other parties involved in this dispute.

Sincerely,

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 carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 24th day of November 2003.