

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-4583.M2

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

March 12, 2004

Re: IRO Case # M2-04-0846-01

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery, and who has met the requirements for the TWCC Approved Doctor List or who has been granted an exception from the ADL. He or she has signed a certification statement attesting 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 referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient is a 58-year-old female who slipped on a wet floor on ___. She developed pain in her neck, shoulder primarily on the right side, and low back. Her symptoms have persisted despite medications, physical therapy, facet joint injections and trigger point injections. The last injection documented in the records provided for this review was 1/27/04. The pain is primarily in the patient's neck now, but she has some right lower extremity pain. The pain extends from her neck to the right upper extremity. An MRI of

the cervical spine indicates the potential of surgically significant changes on the right side at C5-6.

Requested Service(s)

Work hardening program x 40 sessions

Decision

I agree with the carrier's decision to deny the requested WHP.

Rationale

This patient has continuing difficulties that have not been treated adequately, and certainly have not been treated to the point that a work hardening program would be indicated. There is still the potential of a surgical procedure being necessary, and certain aspects of work hardening may cause more difficulty for the patient, rather than less. With the patient's continued symptoms that have not been adequately treated and are interfering with work, a work hardening program is not indicated. Work hardening may be appropriate when symptoms have subsided to the point that a return to work is possible and it is expected that work hardening will make the work easier and more pain free. Additional consultation with a spine surgeon may lead to additional testing to reveal surgically correctable pathology is indicated before a work hardening program is pursued.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to 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 a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk
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 other party involved in this dispute.

Sincerely,

In accordance with Commission Rule 102.4 (b), I hereby certify that a copy of this Independent Review Organization (IRO) decision was sent to the carrier and the requestor or claimant via facsimile or US Postal Service from the office of the IRO on this 16th day of March 2004.