

MDR Tracking Number: M2-04-1115-01  
IRO Certificate # 5259

April 29, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_ or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_.

#### CLINICAL HISTORY

This is a gentleman who was a passenger in a vehicle that was involved in a MVA. There were varied complaints and a diagnosis of cervical strain, lumbar strain was made. Imaging studies noted multiple level degenerative changes and no acute findings. At one point it was noted that Waddell's testing was markedly positive. There are several notes indicating the use of the device, however, the medication usage has not declined or been altered to a "lesser" drug. Moreover, on grip strength testing as part of the FCE, there was a clear demonstration of a lack of effort. Combining this with the Waddell's assessment, the veracity of complaints is called into question.

#### REQUESTED SERVICE (S)

Purchase of a muscle stimulator

#### DECISION

Denied.

## RATIONALE/BASIS FOR DECISION

The primary treating physician failed to produce any competent, objective, and independently confirmable medical evidence demonstrating the efficacy of this device. The utilization curve is documented however there is no measurable improvement in this condition after 18 months. Has the use of oral analgesic been reduced? There is no data to indicate that is the case. Clearly there is no established positive result from this use of this device. Moreover, there is no clinical assessment made by the primary treating physician that would support the use, let alone the purchase, of this device. Lastly, this is a passive device and noting the date of injury, this claimant should be doing only those active modalities that enhance the rehabilitation of this injury. Given the assessment of markedly positive Waddell's and the grip strength testing noting a less than adequate effort, the veracity of the complaints is challenged. Such passive modalities are indicated in the acute phase of care and their use must be time-limited. The Philadelphia Panel Physical Therapy Study found little or no supporting evidence to include such modalities in the treatment of chronic pain greater than 6 weeks. Moreover, the efficacy of this type of device in the long-term patient has been studied repeatedly. As noted by Herman (Spine 1994 Mar 1; 19(5): 561) this treatment adds no apparent benefit. As described by Deyo (NEJM 1990 Jun 7(23): 127-34) TENS is no more effective than placebo. Noble writing in Clinical Physiology 2000 (Jan;(1): 2-7) also noted similar results. Further, as reported by Johnson in Clin Physiol Function (May 2002); the only potential indication for this type of device is for ischemic pain. Clearly that is not the case in this situation. Simply put, this device does not improve the situation, there is no identification of a decrease in medication use and the functionality of the claimant was not reported out. With the lack of specific acute pathology; the treatment plan should be geared to those active measures which address functionality and this is not one of those.

## 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 (20 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 **20** (twenty) calendar 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 or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a 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

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

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 30<sup>th</sup> day of April 2004.