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

SOAH DOCKET NO. 453-04-7147.M2

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

May 27, 2004

Re: IRO Case # M2-04-1212-01

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:

<u>Medical Information Reviewed</u>

1. Table of disputed services
2. Denial letters
3. Carrier IRO summary 4/28/04
4. Letter of appeal 3/5/04
5. RME report 4/27/04, 8/18/03
6. TWCC 69 and impairment report 5/28/02, 10/10/01, 3/27/00

7. MRI lumbar spine 7/21/99, 3/14/00
8. Report of EMG/NCS lower extremities 3/13/00
9. CT scan head report 9/23/02
10. CT cervical spine report 9/23/02
11. Office examination notes and treatment records 1999 - 2004

History

The patient is a 61-year-old female who in ___ reached to pick up a napkin on the floor, when a rug moved from under her and she fell. She injured her knee and ankle, and soon developed low back pain. She is now described as morbidly obese, and she has continued pain, including right lower extremity pain, despite physical therapy, epidural steroid injections, facet injections, and a total knee replacement. MRI and CT scanning show multilevel chronic change without surgically significant findings. Psychological problems are mentioned. Findings on examination on 3/4/04 indicated straight leg raising now being positive to 30 degrees, which is a change, along with an increased amount of pain and weakness of dorsiflexion and plantar flexion of both feet.

Requested Service(s)

MRI of the lumbar spine

Decision

I disagree with the carrier's decision to deny the requested MRI.

Rationale

It has been three years since the last MRI was performed, and three and one half years since a CT myelogram was performed, and those studies suggested a progression of difficulties at the L5-S1 level, compared to the original MRI on 7/21/99. Time and the patient's obesity may well have contributed to continued changes that may cause nerve root compression, which was not appreciated previously. Therefore, repeat MRI is the most reasonable way to obtain information regarding possible changes.

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 28th day of May 2004.