December 14, 2004

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M2-05-0367-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Medical Doctor who is board certified in Pain Management. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

As per the records provided, the patient was working as a CNA and moving a patient in a bed. While realizing this activity, she presented an onset of back pain and left inguinal pain which was reported to her supervisor and treated in the emergency room at the same facility. The patient was later treated by Dr. S, a chiropractor, and treated with physical therapy. After approximately, eight weeks of physical therapy, the patient was referred to an orthopedic surgeon, who deemed that she was not a surgical candidate at that point in treatment and recommended that she continue with conservative treatment. By 04/24/04, the patient was treated by Dr. E who performed one LESI with minimal help reported. The patient was later evaluated by Dr. D on 10/21/03. During his evaluation, the patient referred lumbar pain with left radicular

symptoms. Patient also has been evaluated as being obese with an approximate weight of 217 lbs and height of 5'1". He recommended that the patient undergo a lumbar myelogram.

There is some confusion regarding an RME report of 12-26-03 by Dr. I. In this note, it states that the patient re-injured her back during an FCE evaluation. The reviewer is unsure as to how or which symptoms changed after this occurrence, nonetheless, upon examination, she presented with physical radicular signs and a positive SLR. Also detected were decreased reflexes and muscle spasms of left leg. Dr. I's recommendations included: 3 months of pain management, EMG, back brace and NSAIDS.

Patient was evaluated again on 03-31-04 at which time she presented with posterior elements of pain with a negative SLR. She did present with some decreased sensory of left S1 and tenderness in the left gluteal distribution. He also referred that the patient presented with severe pain behavior and depression due to her work injury. Later evaluation of 04-21-04 reported that the patient's pain level had decreased to a 1/10 post procedure. He states that she continues with anxiety and depression, therefore a CPMP was recommended as well as another ESI. He also reported sleep deprivation due to work injury. Three days later the patient underwent an RME on 04/24/04 at which time the patient presented diffuse tenderness with extreme voluntary range of motion loss. The examiner felt that she had symptomatic overlay despite the hyper-reflexia and decreased sensory to the right lower extremity. He recommended weight loss and vocational rehabilitation.

The patient underwent a designated doctor evaluation by Dr. C, DO, on 08-19-04. Unfortunately, the report presented is incomplete and his conclusions were not provided. He reported that the diagnostics presented with disc bulges L4-S1 on MRI. He once again reports an obese patient of 5'1 and 204 lbs. She presented with some left paravertebral tenderness, muscle spasms and a positive SLR in the left paravertebral area. The rest is inconclusive without the report. I do have a statement that this evaluation concluded with a 5% impairment rating.

Diagnostic records indicate an MRI of 10/08/03 which reports a diffuse disc bulge at L4-L5 with facet arthrosis and some foraminal encroachment. At L5-S1, there is a diffuse annular disc bulge with facet arthrosis and bilateral encroachment as well.

The available notes from Healthtrust, the requesting party, span from 01-16-04 through 08-26-04. On 01-16-04, ___ reported that the patient developed depression over 5 months. The patient was unable to control pain with medications and had poor coping skills. He recommended 8 initial individual sessions to determine if a chronic pain management program was necessary. After these 8 sessions were completed, the patient was reported to have minimal progress due to poor coping skills. The patient continued with anxiety, depression and pain complaints. She continued with difficulty concentrating due to pain complaints. By 05-05-04, the patient was placed on Zoloft for a short period of time and she continued with severe and constant pain. There is a note from Dr. H which reports that the Paxil medication has also been helpful. The patient later concluded the two medication management sessions with some progress and this

concluded on 09-21-04. In addition, a psych note of 08-26-04 states that the patient reports that her "injections have been extremely helpful".

REQUESTED SERVICE

Requested services include the proposed 30 session chronic pain management program.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

In reference to the requested chronic pain management program, the reviewer feels that it is not medically necessary at this time. According to standard medical practices, such psychological programs are reserved for patients at a tertiary level of treatment. This corresponds to patients who have undergone all possible conservative treatment and indicated interventional treatment and continue with significant pain behavior beyond their pain. The reviewer does not feel that ___ has reached a tertiary level of care. In order to confirm this, the reviewer would need access to previous interventional treatment provided to ___. According to the provided records, she has only undergone one LESI under the care of Dr. E. However, the patient stated in a psych session that she was scheduled for another injection and her previous injections had helped her. After careful search of the records, the reviewer cannot find reference as to the type of procedure that she has undergone. The reviewer does not know if she completed an ESI series or underwent a different type of pain intervention such as medial branch blocks or trigger point injections. The reviewer does not feel that sufficient documentation was provided to confirm that the patient has reached a tertiary level of care.

This type of chronic pain management program is reserved for patients that present with a physically chronic pain condition and are in need of secondary coping mechanisms for a physical condition that cannot be improved. The reviewer does not believe that this is the case for ___. She presents with disc bulges at two levels with significant facet hypertrophy. Apparently, she is not a surgical candidate, however, the only orthopedic note has been provided is from an evaluation 8 weeks post-injury when the patient was still in a conservative phase of treatment. The reviewer does not know if she was evaluated by an orthopedist after exhausting conservative treatment or interventional pain management. The reviewer doubts that she has completed with medical pain management since she referred active injection treatment in a note as recent as 08-26-04. In addition, throughout her psychological session notes, the patient consistently continues to refer significant levels of pain that interfere with her concentration. The patient has even referred that she had a 1/10 pain level after her first ESI. A patient that has significant psychosocial barriers would probably not refer such significant pain relief after a procedure. Nonetheless, it does seem that the patient has developed depressive symptoms possibly due to poorly managed pain during a one-year lapse. The records do not indicate any reference to pre-

existing depression treatment or psychiatric treatment; if this is so then this would be a pre-existing condition.
At this time, the reviewer does not think that options for medical treatment have been exhausted and her current complaints could be managed well with further anti-depressant treatment while she continues her medical treatment plan. The reviewer states that a chronic pain program is premature at this time. This is further confirmed by her lack of response to the individual psychotherapy sessions.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

CEO

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.

In the case of prospective ***spinal surgery*** decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other ***prospective (preauthorization) medical necessity*** disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) 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 (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 Worker's Compensation Commission, P.O. Box 17787, Austin, TX 78744. The fax number is 512-804-4011. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(u)(2).

Sincerely,

CEO

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 14th day of December, 2004.

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: