

March 29, 2005

Re:    **MDR #:**            M2-05-0674-01            **Injured Employee:**  
      **TWCC#:**  
      **IRO Cert. #:** 5055                    **DOI:**  
                                                  **SS#:**

**TRANSMITTED VIA FAX TO:**

**Texas Workers' Compensation Commission**

Attention:  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REQUESTOR:**

Positive Pain Management  
Attention: Heather Quillin  
(972) 487-1916

**RESPONDENT:**

American Home Assurance Co.  
Attention: Annette Moffett  
(512) 867-1733

**TREATING DOCTOR:**

Robin P. Shuchman, D.C.  
(469) 828-0102

Dear Ms.\_\_\_\_:

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to IRI for an independent review. IRI has performed an independent review of the medical records to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is licensed in chiropractic and is currently listed on the TWCC Approved Doctor List.

We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by Independent Review, Inc. is deemed to be a Commission decision and order.

#### YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this 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 ten (10) days** of your receipt of this decision (28 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 twenty (20) days** of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you **five (5) 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 Workers' Compensation Commission, MS-48  
7551 Metro Center Dr., Ste. 100  
Austin, TX 78744-1609

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

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 March 29, 2005.

Sincerely,

Gilbert Prud'homme  
General Counsel

GP/thh

**REVIEWER'S REPORT**  
**M2-05-0674-01**

**Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

Correspondence

Psychological evaluation 10/28/04

Office notes 06/21/04 – 12/23/04

Physical therapy note 08/20/04

Physical performance tests 10/27/04 – 10/28/04

Information provided by Respondent:

Correspondence

**Clinical History:**

This female patient underwent MRI, FCE, NCV, X-rays, active and passive physical medicine modalities, trigger point injections steroid injections, lumbar facet injections and work hardening after sustaining a work-related injury on \_\_\_\_.

**Disputed Services:**

Thirty (30) day chronic pain management program.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that chronic pain management program is not medically necessary in this case.

**Rationale:**

In the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs.

Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop." <sup>1</sup> In its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)" <sup>2</sup>

In this case, the provider's proposed chronic pain management program (following a work hardening program) is the type service that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

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<sup>1</sup> 26 Tex. Reg. 9874 (2001)

<sup>2</sup> "Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77<sup>th</sup> Legislature, page 6.

On the most basic level, the provider has failed to establish why the proposed services would be required to be performed one-on-one when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care."<sup>3</sup>

That is especially true in this case since the previously attempted work hardening program had within it the self-help strategies, coping mechanisms, exercises and modalities that are inherent in and central to the proposed chronic pain management program. In other words and for all practical purposes, much of the proposed program has already been attempted and failed. Therefore, since the patient is not likely to benefit in any meaningful way from repeating unsuccessful treatments, the proposed chronic pain management program is medically unnecessary.

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<sup>3</sup> Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.