

June 27, 2005

Re: MDR #: M2-05-1748-01 **Injured Employee:**
TWCC#: **DOI:**
IRO Cert. #: 5055 **SS#:**

TRANSMITTED VIA FAX TO:
Texas Workers' Compensation Commission
Attention:
Medical Dispute Resolution
Fax: (512) 804-4868

REQUESTOR:
RS Medical
Attention: Joe Basham
(800) 929-1930

RESPONDENT:
American Casualty Co.
Attention: Theresa Borzik
(713) 295-6025

TREATING DOCTOR:
Joseph Alvarez, MD
(281) 338-8821

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 board certified in Neurology and Pain Management 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 June 27, 2005.

Sincerely,

Gilbert Prud'homme
Vice President/General Counsel

GP/th

**REVIEWER'S REPORT
M2-05-1748-01**

Information Provided for Review:

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

From Requestor:

Correspondence

Physical therapy notes 03/08/04 – 03/31/05

From Treating Doctor:

Office notes 07/24/03 – 04/05/05

Operative reports 06/13/02 – 09/22/04

Radiology reports 06/24/99 – 11/17/99

Clinical History:

This female claimant sustained a work-related injury on ____ that has resulted in ongoing chronic back pain, which was thought to be mechanical in nature. She has also been diagnosed as having failed back surgery syndrome. She has had severe muscle spasms, including those of the psoas muscle, which has been felt to result in a flex-forward position, and has been treated with Botox injections into the involved musculature. Other treatments having included physical therapy and exercise, medications including opioids, muscle relaxers, and anti-inflammatory medications, as well as the use of a muscle stimulator device.

Disputed Services:

Purchase of an RS4i muscle stimulator.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the muscle stimulator in dispute is medically necessary in this case.

Rationale:

It is clear from the medical records provided, including notes from her treating physician as well as from the claimant herself, that the use of this muscle stimulator device has helped in symptomatic control of her pain. It appears that her chronic pain condition is quite refractory and has not responded to rather aggressive treatment options until now and that no single treatment is likely to offer her any significant sustained relief. However, the claimant's own documentation as well as the physician caring for her make it clear that she has benefited partially from the use of this device without any adverse side effects, etc. Though it is not clearly documented in the records provided that this claimant has demonstrated a reduction in medication usage or increased functioning, etc., from the use of this device, it is safe to presume that these outcomes would be reasonable with any symptomatic improvement from any intervention. From the patient's own correspondence and the records from her treating physician, the reviewer is persuaded to believe that the patient has benefited enough from this device to warrant long-term, indefinite use. Therefore, the reviewer does feel that this treatment is medically reasonable and necessary for this claimant.