

## NOTICE OF INDEPENDENT REVIEW DECISION

February 9, 2006

### Requestor

RS Medical  
ATTN: Joe Basham  
P.O. Box 872650  
Vancouver, WA 98067-2650

### Respondent

Liberty Mutual Insurance Co.  
ATTN: Rebecca Shultz  
100 Lincolnway West  
Mishawaka, IN 46544

RE: Claim #:  
Injured Worker:  
MDR Tracking #: M2-06-0549-01  
IRO Certificate #: IRO4326

TMF Health Quality Institute (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Division of Workers' Compensation (DWC) has assigned the above referenced case to TMF for independent review in accordance with DWC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a TMF physician reviewer who is board certified in Family Practice, by the American Board of Family Practice, Inc., licensed by the Texas State Board of Medical Examiners (TSBME) in 1979, and who provides health care to injured workers. This is the same specialty as the treating physician. The TMF physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and the provider, the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### Clinical History

This patient sustained a work-related injury on \_\_\_ when he was moving a plant and felt a sudden pop in the lumbar region resulting in low back pain. An MRI of the lumbar spine indicated an early disc herniation at L5 and S1 centrally located. The patient has undergone physical therapy, massage therapy, electrical stimulation, and tens unit without any significant relief of his pain.

### Requested Service(s)

Purchase of a RS4i muscle stimulator

### Decision

It is determined that the purchase of a RS4i muscle stimulator is not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient would benefit more from an active exercise program than the passive modality of a muscle stimulator. In addition, the consultation letter from the neurosurgeon states "If the patient follows a home exercise program after the infection, most likely the pain symptoms will improve, as well as his range of motion and he will be able to return to work". Therefore, the medical record documentation does not substantiate the medical necessity for a muscle stimulator.

This decision by the IRO is deemed to be a DWC decision and order.

**YOUR RIGHT TO APPEAL**

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code § 413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

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 hearing and a **copy of this decision** must be sent to: Chief Clerk of Proceedings/Appeals Clerk, Texas Department of Insurance, Division of Workers' Compensation, 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 all other parties involved in this dispute.

Sincerely,



Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:dm  
Attachment

cc: Injured Worker  
Program Administrator, Medical Review Division, DWC

In accordance with Division 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 9th day of February 2006.

Signature of IRO Employee:  
Printed Name of IRO Employee: