INDEPENDENT REVIEW INCORPORATED

December 12, 2006

Re: MDR #: M2 07 0363 01 Injured Employee: ___
DWC #: ____ DOI: ___
IRO Cert. #: 5055

TRANSMITTED VIA FAX TO:
TDI, Division of Workers' Compensation
Medical Dispute Resolution
Fax: (512) 804-4868

RESPONDENT: TASB

TREATING DOCTOR: R. Dean McMillan, MD

In accordance with the requirement for DWC to randomly assign cases to IROs, DWC assigned this 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 office manager 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 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 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

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reviewed by a physician who is a board certified in anesthesiology with a subspecialty in pain management and is currently listed on the DWC Approved Doctor List.

We are simultaneously forwarding copies of this report to all participating parties and the TDI, Division of Workers' Compensation. This decision by Independent Review, Inc. 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.

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 December 12, 2006.

Sincerely,

Jeff Cunningham, DC
Office Manager

INDEPENDENT REVIEW INCORPORATED

REVIEWER'S REPORT
M2 97 0363 01

MEDICAL INFORMATION REVIEWED:

1. Work hardening psychologic assessment by Ms. Denise Turboff dated 09/21/06
2. Functional capacity evaluation dated 09/27/06
3. Request for 20 sessions of work hardening program from chiropractor Martinez dated 09/27/06
4. Reconsideration request for 20 sessions of work hardening program for chiropractor Martinez dated 10/04/06
5. Request for reconsideration of 20 sessions of work hardening program from Dr. McMillan dated 11/14/06
6. Prospective review by Dr. Harwood dated 11/16/06

BRIEF CLINICAL HISTORY:

This claimant was allegedly injured on _____ while lifting a carpet cleaning machine while working as a janitor in a public school. He apparently received extensive amounts of physical therapy at the Pain and Recovery Clinic of North Houston beginning on 08/09/06 followed by a work conditioning program. An MRI scan on 08/08/06 showed diffuse congenital lumbar canal stenosis with moderate to severe canal stenosis, short pedicles, hypertrophy of the facet joints, and disc bulges throughout the entire lumbar spine. The EMG study on 09/05/06 allegedly showed sensory and motor peripheral neuropathy as well as polyradiculopathy. The claimant was evaluated for a work hardening program on 09/21/06 by Denise Turboff. In that evaluation Ms. Turboff noted the claimant's medications were Darvocet, Celebrex, and Skelaxin. The claimant rated his pain level as 0-1/5. A Beck Depression Inventory indicated a "mild" level of depression. The claimant was noted to have "no psychologic issues" in the evaluation. A functional capacity evaluation was then performed on 09/27/06, allegedly demonstrating the claimant's ability to perform at a light physical demand level with an allegedly heavy physical demand level required for his occupation. Careful review of the data from that functional capacity evaluation was performed by this reviewer, including evaluations of the physiologic responses to the test. A request was then made for 20 sessions of a work hardening program. That request was appropriately reviewed by 2 different physician advisers, both of whom found the request to not be medically reasonable or necessary. The initial request stated that the claimant was "depressed and too focused on pain." The reconsideration request contained no new medical information. A prospective review on 11/16/06 noted the previous treatment history of physical therapy and work conditioning program at the same location where work hardening was now being requested. That

review noted the MRI findings, the claimant's minimal pain level, and minimal medication intake.

DISPUTED SERVICES:
Twenty sessions of work hardening.

DECISION:

I AGREE WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE.

RATIONALE OR BASIS FOR DECISION:
This claimant appears to have sustained a lumbosacral strain injury superimposed upon global lumbar degenerative spine disease and spinal stenosis, conditions which were clearly pre-existing to the alleged work event of _____ and consistent with the claimant's age of 69 years at the time of the alleged work injury. He received appropriate physical therapy and a work conditioning program, as well. There is no medical evidence to support any psychologic diagnosis or psychologic illness based upon the psychologic intake interview performed by Ms. Turboff on 09/21/06. Moreover, that interview indicates that the claimant's pain level was 0-1/5, certainly minimal, and that the level of depression was said to be "mild." Therefore, there is no medical evidence to support the need for psychologic services within a work hardening program. Careful evaluation of the functional capacity evaluation on 09/27/06 demonstrates that the claimant did not reach appropriate heart rate targets to indicate that maximum effort was being put forth during the functional capacity evaluation. The criteria quoted in the functional capacity evaluation clearly states that the claimant should reach 85% of his maximum heart rate or excess of 75% of his maximum heart rate continuously for 1 minute. The data obtained during the functional capacity evaluation clearly demonstrates that the claimant never reached 85% of his maximum heart rate nor did he reach 75% of his maximum heart rate sustained for 1 minute. Therefore, the effort put forth by the claimant on the functional capacity evaluation appears inadequate to reach any valid conclusions about his physical demand capacity. Therefore, absent medical evidence of need for psychologic services within a work hardening program and sufficient evidence of data indicating appropriate physiologic response to the functional capacity evaluation, this claimant does not meet appropriate criteria for entrance to a work hardening program. Moreover, having completed a work conditioning program and showing no medical evidence for need of psychologic services, entry into a work hardening program would be excessive, and the physical component of work hardening would merely be a duplication of what was already received in work conditioning. Therefore, this claimant does not meet accepted criteria for entrance into a work hardening program and, therefore, the request for 20 sessions of a work hardening program is not medically reasonable or necessary.

SCREENING CRITERIA/TREATMENT GUIDELINES

This decision is based upon the data obtained from the psychologic assessment and functional capacity evaluation performed by the requesting facility in order to determine the appropriateness of a work hardening program for this claimant.