THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-04-1515.M5

MDR Tracking Number: M5-03-1860-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on March 24, 2003.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the surgery of 10/1/02, consisting of exploration of spinal fusion, muscle myocutaneous or fasciocutaneous flap, adjacent tissue transfer or rearrangement more than 30 sq cm unusual or complicated any area, laminectomy facetectomy/formanotomy single vertebral segment thoracic, laminectomy with decompression of nerve roots, including partial facetectomy and formainotomy and/or excision of herniated intervertebral lumbar, laminectomy facetectomy/formaninotomy single vertebral segment each additional segment cervical thoracic or lumbar, posterior segmental instrumentation 3 to 6 vertebral segments, arthodesis lat transverse w/gft-int fixa lumbar and arthrodesis-post-lat-tech-each additional interspace were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the surgery of 10/1/02, consisting of exploration of spinal fusion, muscle myocutaneous or fasciocutaneous flap, adjacent tissue transfer or rearrangement more than 30 sq cm unusual or complicated any area, laminectomy facetectomy/formanotomy single vertebral segment thoracic, laminectomy with decompression of nerve roots, including partial facetectomy and formainotomy and/or excision of herniated intervertebral lumbar, laminectomy facetectomy/formaninotomy single vertebral segment each additional segment cervical thoracic or lumbar, posterior segmental instrumentation 3 to 6 vertebral segments, arthodesis lat transverse w/gft-int fixa lumbar and arthrodesis-post-lat-tech-each additional interspace were not found to be medically necessary, reimbursement for date of service 10/1/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 22nd day of October 2003.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

October 16, 2003

Re: MDR #: M5-03-1860-01
IRO Certificate No.: IRO 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Board Certified in Spine Surgery.

Clinical History:

Unfortunately, a brief clinical history does not suffice for this unfortunate gentleman. The patient has a date of injury of ___. He underwent his first back surgery on approximately 02/17/92, which consisted of a decompressive laminectomy at L4-5 and L5-S1 on the left, with L4-5 discectomy and foraminotomy. He was noted to walk two miles twice daily in clinic in October 1992. Sometime between then and October 1993, however, he became bound to a walker and underwent a second operation on approximately 04/12/95, which consisted of decompressive laminectomy at L4-5 and L5-S1, with resection of the L-5 disc, and spinal fusion at L4-5 and L5-S1 with instrumentation from L-4 to S-1.

The patient had persistent back and leg symptoms, and in March 1997 underwent removal of hardware for failed hardware and loosening thereof. The patient had persistent back and leg symptoms and in February 1998 was taken to the operating room for bilateral laminectomy and foraminotomy at L-1 to S-1, right and left iliac bone graft, exploration of fusion mass, excision of pseudoarthrosis at L4-5 and L5-S1, anterior fusion through a posterior approach at L-2 to S-1 using Ray cages, lateral transversse fusions at L-2 to Ss-1, posterolateral facet fusion at L-2 to S-1, bilateral lateral instrumentation at L-2 to S-1 with quarter-inch rods, pedicle screws at L-2 to S-1 with rods and double crosslinks and L2-3, L4-5, and fat grafting, L-1 to S-1.

The patient had persistent symptoms and, therefore, underwent a fifth operation in December 1998, which consisted of removing bone stimulator and electrodes, excision of lumbosacral cyst, removal of hardware, exploration of fusion mass, resection of pseudoarthrosis, bone grafting and pedicle screw holes at L-2 to S-1, sacral grafting, bilateral laminectomy and foraminotomy with partial excision of spinous process, L-1 to S-1, anterior from posterior approach augmentation at L-2 to S-1, lateral transverse fusion at L-2 to S-1, posterolateral facet fusion at L-2 to S-1, fat grafting at L1-2, bilateral lateral instrumentation at L-2 to S-1, with quarter-inch rods and double crosslinks at L2-3, L5-S1, using Synthes instrumentation.

The patient had persistent symptoms and underwent a sixth operation in October 1999, which consisted of removal of hardware, exploration of fusion, excision of pseudoarthrosis, sacral grafting, bone grafting, pedicle screw holes, L-1 to S-1, anterior fusion from posterior approach, L2-3, posterolateral transverse fusion, L-2 to S-1, with EBI bone stimulator for lateral transverse fusion mass, posterolateral facet fusion at L-2 to S-1,

partial excision of spinous process, L-1 to S-1, bilateral laminectomy L-1 to S-1, with foraminotomies, bilateral lateral instrumentation at L-3 to S-1 with quarter-inch rods and single crosslink, and EBI for bilateral transverse fusion mass, fat grafting at L-1 to S-1.

The patient had persistent symptoms and underwent a seventh operation on 01/13/00, which consisted of I&D of sacral wound, exploration of fusion, excision of pseudoarthrosis and debris, curetting of bone and architecture at L-1 to S-1, with decompression of L-1 to S-1 roots, lateral transverse fusion at L-2 to S-1, with graft on at L-2 to S-1 bilaterally. The patient had a muscle flap for secondary closure of dead space, fat grafting at L-1 to S-1, creation of skin and subcutaneous flap for tissue transfer for secondary closure of lumbosacral spine pre- and post-cultures, and copious irrigation with antibiotic solution.

The patient had persistent symptoms and underwent the disputed surgery on 10/01/02.

Disputed Services (As presented by TWCC):
Surgery of 10/01/02, consisting of exploration of spinal fusion, muscle myocutaneous or fasciocutaneous flap, adjacent tissue transfer or re-arrangement more than 30 sq cm unusual or complicated any area, laminectomy facetectomy/formaniotomy single vertebral segment thoracic, laminectomy with decompression of nerve roots, including partial facetectomy and foraminotomy and/or excision of herniated intervetebral disc re-exploration single interspace lumbar, laminectomy facetetomy/formaninotomy single vertebral segment each additional segment cervical thoracic or lumbar, posterior segmental instrumentation 3 to 6 vertebral segments, arthrodesis lat transverse w/gft-int fixa lumbar and arthrodesis-post-lat-tech-each add interspace.

Decision:
The reviewer agrees with the determination of the insurance carrier and is of the opinion that the procedures in question were not medically necessary in this case.

Rationale:
There is no clinical evidence to support that the eighth surgical procedure on this gentleman's back, which was very similar to the fourth, fifth, sixth and seventh, would reduce his back and leg pain.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional 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 case for determination prior to referral to the Independent Review Organization.

Sincerely,