Texas Department of Insurance

Division of Workers' Compensation

FastFacts

For Insurance Carriers and Health Care Providers

Review of Medical Necessity Disputes by an IRO

Texas Administrative Code (TAC) Title 28, Chapter 133, Subchapter D (related to Dispute of Medical Bills), §133.308

What is Medical Dispute Resolution (MDR) by an Independent Review Organization (IRO)?

- It is the process by which an independent review organization (IRO) conducts reviews of network and non-network preauthorization, concurrent, or retrospective medical necessity disputes.

- For medical necessity disputes filed on or after January 15, 2007, a request for an independent review by an IRO is handled through the Texas Department of Insurance's (Department) Health and Workers' Compensation Networks Division (HWCN).

Who can request an IRO review of a medical necessity dispute?

- For network health care services –
  - Injured employees, health care providers, or qualified pharmacy processing agents acting on behalf of a pharmacy, may request dispute resolution for preauthorization, concurrent, and retrospective medical necessity disputes.

- For non-network health care services –
  - Providers, or qualified pharmacy processing agents acting on behalf of a pharmacy, may request dispute resolution for preauthorization, concurrent, and retrospective medical necessity disputes.
  - Injured employees may request dispute resolution for preauthorization and concurrent medical necessity and for retrospective medical necessity when reimbursement was denied for health care paid by the injured employee.

How and when is a request for an IRO review submitted?

- When the insurance carrier (carrier) denies the medical necessity of the health care, and
- A request for reconsideration is submitted to the insurance carrier,* and
- After reconsideration, the insurance carrier has denied the medical necessity again, then
- No later than 45 calendar days after receiving the denial after reconsideration, the requestor submits the request for an IRO review of the dispute to the carrier or utilization review agent by using the Department's IRO request form LHL009 (available on the Department's website at: http://www.tdi.state.tx.us/company/iro_requests.html or by mail via the HWCN Division, Mail Code 103-6A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104).

- The carrier or utilization review agent then submits a request to the HWCN Division for assignment to an IRO.

  **An employee with a life-threatening condition is entitled to an immediate review by an IRO and is not required to comply with the procedures for reconsideration.*

  What happens after the request is submitted?
  After reviewing the request for IRO review, the Department will assign an IRO and notify the parties about the IRO assignment.

  - The carrier or the carrier's URA must submit the required documentation not later than the third working day after the date the carrier receives the notice of IRO assignment.* The documentation must include:
    - The forms prescribed by the Department for requesting IRO review;
    - All medical records of the employee in the possession of the carrier that are relevant to the review;
    - All documents, guidelines, policies, protocols, and criteria used by the carrier in making the decision;
    - All documentation and written information submitted to the carrier in support of the appeal;
    - The written notification of the initial adverse determination and the written adverse determination of the reconsideration; and
    - Any other information required by the Department related to a request from a carrier for the assignment of an IRO.

    **The IRO may request additional information from either party or from other providers whose records are relevant to the review.*

    **If the records are requested from a provider who is not a party to the dispute, the carrier must reimburse copy expenses for the requested records. Parties to the dispute may not be reimbursed for copies of records sent to the IRO.*

  - The IRO may request that the Division require an examination by a designated doctor no later than 10 days after the IRO receives notification of assignment. The treating doctor and carrier must forward a copy of all medical records, diagnostic reports, films, and other medical documents to the designated doctor. The medical records must arrive no later than three working days prior to the scheduled examination. The designated doctor files a complete report, addressing all issues as directed by the Division, with the IRO no later than seven working days after completing the examination.*

  - The IRO must render a decision for:
    - Life-threatening conditions: no later than eight days after the IRO receipt of the dispute.
    - Preauthorization and concurrent medical necessity disputes: no later than the 20th day after the IRO receipt of the dispute.
    - Retrospective medical necessity disputes: no later than the 30th day after the IRO receipt of the IRO fee.

    **If a designated doctor examination has been requested by the IRO, the above time frames begin on the date of the IRO receipt of the designated doctor report.*

- The IRO sends the decision to the parties and to their representatives. The IRO will also send a copy of the decision to the Department, along with certification of the date and means by which the decision was sent. The decision must include:
    - A list of all medical records and other documents reviewed;
    - The screening criteria or clinical basis used in making the decision;
    - An analysis of, and explanation for, the decision, including the findings and conclusions used to support the decision;
    - A description of the qualifications of each physician or other health care provider who reviewed the decision;
    - A statement that clearly states whether or not medical necessity exists for each of the health care services in dispute;*
    - A certification by the IRO that the reviewing provider has no known conflicts of interest;
    - Any specific basis for divergence from:
        - the Division's policies or guidelines for non-network health care; or
        - the network's treatment guidelines for network health care.

**If the carrier used a peer review report as the bases for its denial, but the IRO determines that medical necessity does exist, the carrier may not use the peer review report for future medical necessity denials of the same health care services for that compensable injury.*

Who pays for the IRO review?

- For health care provided by a network, in disputes involving preauthorization, concurrent, or retrospective medical necessity the carrier must remit payment to the assigned IRO within 15 days after receipt of an invoice from the IRO.

- For non-network health care:
    - In disputes involving preauthorization or concurrent review, or an employee reimbursement dispute, the *carrier* must remit payment to the assigned IRO within 15 days after receipt of an invoice from the IRO.
    - In a retrospective medical necessity dispute, the *requestor* must remit payment to the assigned IRO within 15 days after receipt of an invoice from the IRO.
        - The Department will dismiss the dispute if the IRO fee has not been received within 15 days of the requestor's receipt of the invoice.
        - After an IRO decision is rendered, the IRO fee must be paid or refunded by the non-prevailing party as determined by the IRO in its decision.

- The carrier pays, in accordance with the medical fee guidelines, for a designated doctor examination requested by an IRO.

- For health care not provided by a network the non-prevailing party to a retrospective medical necessity dispute pays or refunds the IRO fee to the prevailing party not later than 15 days of the IRO decision, even if an appeal of the IRO decision has been or will be filed.

- If a requestor withdraws the request for an IRO decision after the IRO has been assigned, but before the IRO sends the case to an IRO reviewer, the requestor pays the IRO a withdrawal fee of $150 within 30 days of the withdrawal.

- If a requestor withdraws the request for an IRO decision after the case is sent to a reviewer, the requestor pays the IRO the full review fee within 30 days of the withdrawal.

How can an IRO decision be appealed?
**An IRO decision is not an Agency decision. Neither the Department nor the Division is considered parties to an appeal.*

- Non-Network Appeals**:**
  - A party to a medical necessity dispute may seek judicial review of the IRO decision by filing a petition in a Travis County district court not later than the 30th day after the date on which the decision is received by the appealing party. Any decision that is not timely appealed becomes final.
  - At the time the petition is filed, a party to a medical necessity dispute who appeals the decision must send a copy of the petition for judicial review to the IRO that issued the decision being appealed, and request that the IRO provide a record for the appeal.* The IRO must submit the record within 15 days of the request.
    **The party requesting the record shall pay the IRO copying costs for the records.*

- Network Appeals**:**
  - A party to a medical necessity dispute is allowed to seek judicial review of an IRO decision pursuant to Insurance Code §1305.355. The decision of the IRO decision is binding while an appeal is pending, and the carrier and network must abide by the IRO decision.

- Non-Network Spinal Surgery Appeals
  - A party to a preauthorization or concurrent medical necessity dispute regarding spinal surgery may appeal the IRO decision by filing a written appeal with the Division Chief Clerk, in compliance with 28 TAC §142.5(c) (relating to Sequence of Proceedings to Resolve Benefit Disputes), no later than 10 days after receipt of the IRO decision.*
  - The party filing the appeal must deliver a copy of its written request for a hearing to all other parties involved in the dispute.

**The IRO is not required to participate in the Contested Case Hearing (CCH) or any appeal.*

Additional information about the IRO process can be found using the following link:
http://www.tdi.state.tx.us/company/iro_requests.html