

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The Betadine ointment, Benzoin Spray, Ancel 500 mg, Decadron 5 ml vial, Kantrex 500 mg, Lidocaine 10 mg/ml., Demerol 50 mg amp, Reglan 20 mg amp, Fentanyl 100 mc amp, Saline 1000 cc Saline 250 cc, EKG pads, leg splint, tourniquet, disposable airway, 4X4 sponges, Adapitic, 4" Acc, 6" Ace gloves, OR services, pulse oximeter, ET tube, Anesthesia equipment, anesthesia circuit, face mask, VS monitor, Sevoflurane, CO2 monitor, I2, Recovery Room and EKG monitor were found to be medically necessary. The unclassified drugs, miscellaneous surgical supplies, sterile and non-sterile supplies, and central sterile supplies were not medically necessary. The respondent raised no other reasons for denying reimbursement for these supplies, anesthesia, respiratory services, recovery room and EKG/ECG charges.

This Finding and Decision is hereby issued this 25th day of April 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to date of service 10/10/01 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 25th day of, April 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/cl

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 2, 2003

Requester/ Respondent Address : Rosalinda Lopez
TWCC
4000 South IH-35, MS-48
Austin, Texas 78704-7491

RE: MDR Tracking #: M5-03-0339-01
IRO Certificate #: 5242

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

___ 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 an Orthopedic Surgeon physician reviewer who is board certified in Orthopedic Surgery. The Orthopedic Surgeon physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

The claimant was admitted to an ambulatory surgicenter on 10/10/01 for a tarsal tunnel release. The bill was audited by ___, who felt that a 2-day per diem charge was appropriate.

Unfortunately, in the course of the bill audit, ___ used the wrong code in denying charges. The correct manner in denying charges should have been to deny them because they are part of the per diem payment, rather than deny them as being medically unnecessary. The real issue,

therefore, is not whether the services were medically necessary, but whether they should a part of the per diem charge. Nonetheless, this reviewer has been asked to look at the medical necessity of multiple charges billed by the ambulatory surgicenter during the tarsal tunnel release.

Requested Service(s)

Betadine ointment, Benzoin Spray, Ancel 500 mg, Decadron 5 ml vial, Kantrex 500 mg, Lidocaine 10 mg/ml, Demerol 50 mg amp, Reglan 20 mg amp, Fentanyl 100 mg amp, Saline 1000 cc, Saline 250 cc, EKG pads, leg splint, tourniquet, disposable airway, 4X4 sponges, Adaptic, 4" Ace, 6" Ace, gloves, OR services, pulse oximeter, ET tube, Anesthesia equipment, anesthesia circuit, face mask, VS monitor, Sevoflurane, CO₂ monitor, O₂, Recovery Room, EKG monitor, unclassified drugs, miscellaneous surgical supplies, non-sterile supplies, and central sterile supplies.

Decision

Purely on the basis of medical necessity, all the above charges are considered to be reasonable and necessary, with the exception of unclassified drugs, miscellaneous surgical supplies, and sterile and non-sterile supplies, which by their unspecified nature, the medical necessity of which cannot be determined. Additionally, although the charge for an EKG monitor in the Recovery Room, and charges for a VS monitor and CO₂ monitor in the Operating Room are considered to be reasonable and necessary, it would not appear to be reasonable and necessary that they were not part of the Anesthesia and Recovery Room charge. The standard of care for anesthesia is to be able to monitor VS and CO₂ and a Recovery Room without an EKG monitor is not a Recovery Room. The statement of medical necessity is not a statement that there were not excessive charges.

Rationale/Basis for Decision

This reviewer was asked to determine the medical necessity of charges generated during a tarsal tunnel release operative procedure. Assuming that these items were indeed utilized during the procedure, most would appear to be not unreasonable for the procedure at hand. **The standard of care for anesthesia includes monitors for CO₂ and VS. It would not appear appropriate that there would be separate additional charges for them. Similarly, because use of an EKG monitor is routine in any post-anesthesia care area, a separate charge for use of an EKG monitor does not appear appropriate, as it would be expected to be included as part of the Recovery Room charge. The statement of medical necessity is not a statement that there were not excessive charges.**

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

<p>In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 2nd day of April 2003.</p>
