

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 disputed cervical spine surgery was found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 26th day of February 2003.

Noel L. Beavers
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 5/15/01.

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 28th day of February 2003.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/nlb

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

January 29, 2003

Re: IRO Case # M5-03-0367

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery. He or she has signed a certification statement attesting 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 referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient is a now 39-year-old male injured ____. While picking up a boulder he felt a pop in his right shoulder. Rotator cuff surgery was performed, but the patient continued to have pain into his shoulder with neck pain.. He complained of some weakness, worse in

the upper extremities. A Cervical CT myelogram was performed 4/4/01 which suggested both nerve root compression and spinal cord compression, especially at the C5-6 and C6-7 levels. The patient's examination did not show any evidence of cervical myelopathy, but did demonstrate upper extremity problems that suggested nerve root compression.

Requested Service

Surgery 5/15/01, Anterior C5-6 and 6-7 interbody fusion and discectomy with decompression of the spinal cord without second opinion.

Decision

I disagree with the carrier's decision to deny the requested cervical surgery.

Rationale

The length of time involved in obtaining second opinions is such that in a case such as this, the patient's problem could definitely have been increased.

Once the myelogram was done, it is surprising that the patient did not have surgery sooner than 5/15/01. Under the circumstances of a myelogram positive for trouble that is causing the patient's difficulties, surgery should be performed sooner rather than later. In a case of spinal cord pathology, waiting for a second opinion is often detrimental.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,