MDR Tracking Number: M5-03-1254-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June17, 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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 1-21-03.

The IRO reviewed hospital services rendered on 1-31-02 that were denied based upon "V".

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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On May 15, 2003, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

A review of the medical records submitted for review indicated the following:

First of all, the insurance carrier is in violation of Rule 133.301(a) by retrospectively denying preauthorized treatment based upon not medically necessary.

a) The claimant was admitted to hospital on 1-31-02 for spinal surgery. The requestor billed $20,420.43 for services rendered on 1-31-02. The respondent denied reimbursement for 1-31-02 based upon "V –not medically necessary with peer review".
b) ___audited the hospital bill for 1-31-02 and wrote, "The spinal surgery was not in accordance with the TWCC Spinal Surgery rule in effect at that time. ___ chose to have spinal surgery without going through proper procedures."
c) On 2-13-02, ___gave preauthorization approval for inpatient stay commencing on 1/31/02 thru (no ending date) for spinal surgery.
d) The IRO concluded that the services rendered on 1-31-02 were medically necessary.

Therefore, the requestor is entitled to reimbursement for services rendered on 1-31-02 per *Acute Care Inpatient Hospital Fee Guideline.*

Secondly, the submitted records are unclear when claimant was admitted and discharged from hospital:

a) The first indicates that claimant was admitted on 1-15-02 and the bill was for $20,420.43. This UB-92 also indicates that the principal procedure for 1-31-02 was 81.08.

b) The second UB-92 indicates admission on 2-4-02, claimant was inpatient for 14 days, and the total amount billed was $237,055.03.

c) A review of the itemized bill indicates services commence on 1-31-02 through 2-15-02.
d) Discharge Summary that indicates admission on 1-30-02 and discharge on 2-14-02.
e) Admitting History and Physical that indicates date of admission on 1-31-02.

Thirdly, the requestor noted in a letter dated 12-20-02 that EOB denials were not received for services rendered from 2-1-02 to 2-15-02. A UB-92 for dates commencing on 2-1-02 to 2-15-02 was **not** submitted. As stated above the first UB-92 indicates admission on 1-15-02 and the second on 2-4-02.

Fourthly, medical records to support billed services were not submitted. The requestor submitted a Discharge Summary, Admitting History and Physical, and Operative report.

Due to inconsistencies of claimant's admission and discharge date, missing UB-92 for dates 2-1-02 through 2-3-02, and records to support amount billed is in accordance with *Acute Care Inpatient Hospital Fee Guideline*, no reimbursement is recommended for dates 2-1-02 through 2-15-02.

This Decision is hereby issued this 24th day of October 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 1-31-02 through 2-15-02 in this dispute.

This Order is hereby issued this 24th day of October 2003.

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

May 5, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

hMDR Tracking #: M5-03-1254-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor.
This case was reviewed by a licensed Medical Doctor board certified and specialized in Orthopedic Surgery. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___ is a 46-year-old gentleman who has a long-standing history of chronic back pain. He was admitted to ___ to undergo a multi-level lumbar decompression and function on January 31, 2002. Records indicate that the patient was admitted for his procedure and was found to have an upper respiratory infection. He was seen by an internal medicine doctor and respiratory therapist. He was evaluated for a possible embolism. This was negative. Despite this, the patient was taken to the operating room on January 31, 2002. After intubation, this patient developed severe bronchial spasm that preventing surgery from being performed.

___ case was cancelled. This patient had further medical management and the surgery was performed on February 5, 2002. He was subsequently discharged to home on February 14, 2002.

DISPUTED SERVICES

Under dispute is the medical necessity of room and board, medical/surgical supplies, central-sterile supplies, laboratory services, radiology/chest x-ray, OR services, operating room services, anesthesia services, blood administration, respiratory services, pulmonary function, cardiology, recovery room and KDG/ECG.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

All of the medical records and billing statements that were provided were reviewed. It is noted that the patient was charged $20, 420.43 for services performed on January 31, 2002, and those particular charges were reviewed. In addition, the reviewer contacted three different local hospitals and gave them hypothetical of this patient's case without divulging any information. Two of the three stated they would have charged the insurance companies for procedures that have been cancelled as long as the patient had been in the operating room. One hospital stated that they would "eat the charges."

It is noted that all surgeries carry some risk to the patient, both pre-operatively, intra-operatively and post-operatively. In this particular case, the patient had a complication in the early stages of anesthetic induction preventing him from completing his procedure. The medical decision to halt the procedure is appropriate. The assumption is made that the majority of these items charged have been opened and discarded because the procedure was cancelled. The reviewer finds that the room and board, all of the pharmaceutical charges, all of the laboratory services, the radiology services and the cost for all disposable equipment, and the appropriate professional fees for the one hour of the operating room/recovery room time are appropriate. The cardiology and respiratory services are appropriate. It is noted that the operating surgeon did not attempt any charges for the cancelled procedure, which is also appropriate. In review of all of the items, charged, it does not appear that any of these items could be "reusable" or not billable under these circumstances. The cancellation of cases are always unfortunate to the patient and expensive both to the surgeon and to the medical facility providing these services.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,