

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-0603.M5**

MDR Tracking Number: M5-03-1634-01

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 services rendered on 3-15-02 denied based upon "U" were found to be medically necessary.

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(r)(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 not the only issue** to be resolved.

On May 30, 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.

The following table identifies the disputed services that were denied based upon EOB denial code, "M" and the Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
3-15-02	A4649	\$1076.00	\$2236.00	M	DOP	Section 413.011(b)	The requestor did not submit documentation to support amount billed was fair and reasonable.
TOTAL		\$1076.00					The requestor is not entitled to reimbursement.

This Decision is hereby issued this 18th day of July 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

May 7, 2003

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

MDR Tracking #: M5-03-1634-01
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 that 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 D.O. board certified and specialized in Anesthesiology. 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

There is no clinical history provided on this patient other than the operative notes for 3/15/02, which describe lumbar discography under fluoroscopy at L2/3 and L3/4 followed by an intradiscal local anesthetic and steroid injection at L3/4. No history or physical examination, nor any description of the claimant's pain or medical indication for the performance of discography is documented. The billing sheets submitted with this review indicate that discography was performed at L2/3, L3/4, L4/5 and L5/S1, though the operative notes clearly indicate that there was no discography at the billed levels of L4/5 and L5/S1. The billing also reflects charges for a CT scan of the lumbar spine for which no procedure report or radiologic interpretation is provided. Essentially, the only clinical notes provided for review are those of the operative reports.

DISPUTED SERVICES

Under dispute are the medical services rendered on 3/15/02.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

First and foremost, no history or physical examination is documented for this patient to justify lumbar discography, intradiscal steroid injections, or any treatment whatsoever. Second, the billing reflects charges for procedures that were clearly not performed. Furthermore, the operative note describing the lumbar discography indicates not only medically incorrect information, but failure to follow nationally accepted guidelines for performance of discography. Specifically, there is no manometric measurement of the pressure of injection into the disc, which is considered a standard of care. Both discs are found to have normal morphology with "central accumulation of contrast material within the disc" at both levels. Therefore, the claimant's complaint of pain at the L3/4 level is incorrectly diagnosed as an "abnormal discogram at L3/4 with concordant pain rated at 10." A positive pain response in a morphologically normal disc is not considered an abnormal discogram or indicative of any pathology. In fact, a painful response with normal morphology is a result that can only be interpreted as non-physiologic, non-anatomic, and completely non-diagnostic of any abnormal clinical condition. Morphologically normal discs simply do not cause pain when they are injected with 1 cc of contrast material, as is alleged in this operative report.

In summary, since there is no history or physical documented, no medical indication documented for the performance of the procedure, incorrect interpretation of the procedure, as well as incorrect performance of the procedure, there was no medical necessity for the procedures performed on 3/15/02 related to this patient.

___ 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,