

Amended MDR Tracking Number M5-03-3299-01 (**Previously M5-03-1419-01**)

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 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. The dispute was received on 2/10/03.

This Amended Findings And Decision supersedes all previous Decisions rendered in this medical payment dispute involving the above requestor and respondent.

The Medical Review Division Decision of 7/9/03 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 8/14/03. The decision was in favor of the respondent.

The requestor Appealed the Order to an Administrative Hearing because the outpatient lumbar discogram with CT scan and Marcaine challenge to L4-L5 was preauthorized by the carriers preauthorization agent on 1/21/02 (PA#191900). The carrier's audit of retrospective medical necessity is only allowed on healthcare not included in the carrier's preauthorization approval letters per 133.301(a). However, the same rule says retrospective denial of medical necessity on preauthorized healthcare is not allowed. The carrier is liable for the remainder of the preauthorized services/charges as fair and reasonable was not raised in these denials of payment.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(r)(2)(c), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

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 durable medical supplies and electrocardiogram reviewed by the IRO were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for durable medical supplies and electrocardiogram.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees (\$5,635.80). 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.

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 2/11/01 in this dispute.

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

This Amended Finding, Decision and Order is hereby issued this 4th day of November, 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/crl

IRO Decision

July 3, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION
Corrected Letter**

RE: MDR Tracking #: M5-03-1419-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. This physician is a board certified neurosurgeon. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 44-year-old male who sustained a work related injury on _____. The patient reported that while at work he exiting an attic and fell about eight feet, landing on his tailbone. The patient underwent an X-Ray that showed postural alterations but reported to be negative for fracture. The patient also underwent an MRI on 8/11/98. The patient was initially treated with physical therapy and chiropractic adjustments. The patient underwent EMG, physical capacity testing, and video fluoroscopy of the cervical and lumbar spine on 12/17/01. The patient has undergone facet injection and a series of epidural steroid injections.

Requested Services

Durable medical supplies, electrocardiogram on 2/11/02.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is upheld.

Rationale/Basis for Decision

The ____ physician reviewer noted that this case concerns a 44 year-old male who sustained a work related injury to his back on _____. The ____ physician reviewer also noted that the patient underwent an X-Ray that showed postural alterations but was reported to be negative for fracture. The ____ physician reviewer further noted that the treatment for this patient's condition has included facet injection and a series of epidural steroid injections. The ____ physician reviewer indicated that the patient underwent a lumbar discography on 2/11/02. The ____ physician reviewer explained that medical indications for this procedure were not clear from the records included in the case file. Therefore, the ____ physician consultant concluded that the durable medical supplies and electrocardiogram provided during this procedure on 2/11/02 were not medically necessary to treat this patient's condition.

Sincerely,