

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 ___, prevailed on the issued 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 reimburse the requestor the paid IRO fee.

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 respondent raised no other reasons for denying reimbursement in this medical dispute.

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 dates of service 6/21/01 through 6/21/01 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.

This Order is hereby issued this 23rd day of, April 2002.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

March 29, 2002
Texas Workers' Compensation Commission
David R. Martinez, Chief
Medical Dispute Resolution
4000 South IH-35, MS 40
Austin, TX 78704-7491

Attention: Margaret Q. Ojeda

Re: Medical Dispute Resolution
MDR #: M5-02-2010-01
IRO Certificate No.: IRO 5055

Dear Ms. Ojeda:

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a Physician Board Certified in Surgery.

THE PHYSICIAN REVIEWER OF THIS CASE DISAGREES WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted.

Sincerely,

MEDICAL CASE REVIEW

This is for ___. I have reviewed the medical information forwarded to me concerning TWCC Case File #M5-02-2010-01, in the area of Surgery. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Request for Medical Dispute Resolution.
2. Records headlined at Utilization Summary from ____, which includes three pages explaining covered medical procedures.
3. Surgical admission from 5/29/01 to 6/08/01.
4. Re-admission notes from 6/10/01 to 6/28/01.
5. Dictated letter from ____ explaining and requesting review.
6. Copy of previous review done by ____.

B. SUMMARY OF EVENTS:

The patient suffered a spinal injury at work, and on May 31, 2001, underwent his first procedure which consisted of a bilateral laminectomy at L3-L4, L4-L5, and L5-S1, with foraminotomies at these levels; excision of a herniated disk at L4-L5 and L5-S1; excision of spinous processes, portion of L3, L-4, L-5, and S-1; sacroiliac bone graft; excision of fibrosis and congenital pseudoarthrosis at S1-S2; anterior fusion using 16x26 Ray cages at L5-S1 and 14x26 Ray cages at L4-L5; lateral transverse fusions, L4-L5, L5-S1; placement of a bone stimulator; posterolateral facet fusions, L4-L5, L5-S1, S1-S2; bilateral lateral instrumentation with rods and double cross-links; fat graft, L3-S1; and insertion of an epidural catheter.

Following these procedures, the patient was discharged from the hospital on 6/08/01.

He was re-admitted on 6/10/01 because of acute weakness. During this course, the patient became febrile, had some wound drainage which grew a Staph non-aureus species. The patient was started on Vancomycin. A long conservative trial of antibiotics was given. However, the patient had ongoing wound drainage on 6/21/01 and was taken back to the operating room where his previous fusion was explored, further abscess drained, the wound debrided, re-grafted with allograft, and closed over drains.

The patient subsequently has apparently recovered and progressed appropriately after this procedure, with no further documentation of any additional reconstructive surgery provided for me. A Port-A-Cath was also placed for long-term antibiotics at the time of that second admission.

C. OPINION:

It is unclear exactly the question I am to answer. On the Utilization Summary, I have three questions.

1. Was the 6/20/01 surgery medically necessary?

My answer to this is, clearly, the surgery was medically necessary to control the patient's infection and prevent serious complications.

2. Was the 6/21/01 surgery a medical emergency such as an unstable vertebral fracture of such critical nature that increased impairment may result without immediate surgical intervention, bowel or bladder dysfunction related to the spinal injury, severe or rapidly progressive neurological deficit, or motor or sensory findings with spinal cord compression?

My answer is the 6/21 surgery was necessary to prevent extension of the infection and ultimate failure of the fusion with possible serious long-term consequences to the patient.

3. Was there a documented life-threatening degree of medical emergency?

My answer is yes, clearly the surgery was indicated. Whether it needed to be done exactly on 6/21 versus a day or two later, I think, is irrelevant, as there was no non-surgical way to treat this problem. Essentially, the reason for this is the patient had a postoperative infection involving the deep tissues and involving previously placed hardware, bone grafts, and a nerve stimulator. These types of infections will not clear up without surgical drainage.

The other question asked appears to be whether ___ was reimbursed appropriately for these procedures. Apparently, the carrier reimbursed ___ for CPT code 22830, which is exploration of spinal fusion. To me, that implies that the insurance company felt that the procedure was medically necessary, and the dispute seems to center on what bill charges are appropriate for this procedure.

I was not asked to comment on the specific question by the Utilization Summary provided by the insurance. I do feel that the patient's procedure was not a simple case of CPT code 22830 (exploration of spinal fusion) which to me implies reopening the wound, inspecting the spinal fusion for a problem that can only be fully evaluated by surgery, such as a simple seroma or hematoma. I feel that with the extensive debridement, removal of bone, and regrafting segments and also removing hardware to fully evaluate the spinal fusion, this seemed to be an additional procedure that should be reimbursed.

D. ADDITIONAL COMMENTS:

None.

E. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

Date: 26 March 2002