

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 programmable implantable analgesic pump was found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the implantable analgesic pump.

This Decision is hereby issued this 6th day of December 2002.

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 7/20/01 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 (Rule 133.307(j)(2)).

This Order is hereby issued this 6th day of December 2002.

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

DRM/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

November 20, 2002

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

RE: MDR Tracking #: M5-02-2306-01
IRO Certificate #: 4326

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a ___ physician reviewer who is board certified in anesthesiology which is the same specialty as the treating physician. The physician reviewer has signed a certification statement stating 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 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 this case.

Clinical History

This 39 year old female sustained a work related injury on ___ when she fractured her right foot as a result of a fall down some stairs. The patient underwent two orthopedic surgeries, the first on 10/29/91 and the second one on 08/20/92. As part of the patient's treatment for chronic pain, a programmable, implantable analgesic pump was implanted. On 07/20/01, the pump was malfunctioning and required replacement. A new pump was installed on 07/20/01 and filled with Fentanyl.

Requested Service(s)

A programmable, implantable analgesic pump.

Decision

It is determined that the programmable, implantable analgesic pump was medically necessary to treat this patient's condition.

Rationale/Basis for Decision

Based on the medical record documentation, the original analgesic pump was placed in 1997. The "low battery alarm" occurred in July of 2001. This is about the average life span of the battery in Medtronic pumps. Once the battery alarms, the Medtronic Company recommends replacement of the pump "as soon as medically indicated" to avoid problems. Guidelines were followed in this case. At the time, the patient was at a concentration of 2000 micrograms of Fentanyl at a rate of 700 micrograms per day. The pump had to be replaced or the patient could have gone through severe if not life threatening withdrawal symptoms. A patient cannot be stopped from 700 micrograms of intrathecal Fentanyl daily without consequences. Therefore, the replacement of the programmable, implantable analgesic pump was medically necessary.

Sincerely,