

MDR Tracking Number: M5-04-0005-01

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. This dispute was received on 08-29-03.

The IRO reviewed assistant surgeons fee for laminectomy/ facetectomy/ foraminotomy segment; thoracic, lamin-facet, foramin, disk excision, re-exploration; lumbar, each additional segment, arthodesis lateral transverse with gft-internal fixation, lumbar, removal posterior lumbar, remove post segment instrumentation, explore spinal fusion, muscle myocutaneous; trunk, adjacent tissue transfer over 30 sq. cm.; unusual complicated area rendered on 10-01-02 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity assistant surgeons fee for laminectomy/ facetectomy/ foraminotomy segment; thoracic, lamin-facet, foramin, disk excision, re-exploration; lumbar, each additional segment, arthodesis lateral transverse with gft-internal fixation, lumbar, removal posterior lumbar, remove post segment instrumentation, explore spinal fusion, muscle myocutaneous; trunk, adjacent tissue transfer over 30 sq. cm.; unusual complicated area. Consequently, the requestor is not owed a refund of the paid IRO fee.

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.

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

On November 13, 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 and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
10-01-03	22842-80	\$1000.00	\$850.00	M	\$850.00 (25% of MAR for assistant surgeon)	MFG SGR (I)(E)(1)	Operative notes do not support delivery of service. No reimbursement recommended
	20975-80	\$250.00	\$114.00	M	\$113.75 (25% of MAR for assistant surgeon)		
TOTAL		\$1250.00					The requestor is entitled to reimbursement of \$ 0.00

This Decision is hereby issued this 6th day of January 2004.

Georgina Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

November 7, 2003

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

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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 Orthopaedic Surgery. The reviewer is on the TWCC Approved Doctor List (ADL). 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

The dispute that has arisen concerns ___ surgery that was done on October 1, 2002 by ___. This was a procedure on his back which involved removal of hardware and exploration of the spine with decompression from the 12th thoracic vertebra down to the second sacral vertebra. This procedure was assisted by ___. The dispute involves the assistant's surgical fee for this procedure which was charged by ___.

In review of this case, it appears that ___ was a 62-year-old male at the time of surgery. He had originally injured his back on ___ in a fall at work. He had undergone some seven major procedures on his spine prior to this disputed procedure on 10/1/02. ___ has operated on this man several times, as has ___. The patient had continuing back pain and continuing leg pain. He had become infected following at least one of the operative procedures and he had required surgical debridement with drainage and extensive antibiotic therapy as a result of the infection in his spine. He had multiple different types of hardware inserted and removed over the years in these different operations.

This operation was his eighth, and several orthopedic spine surgeons saw him regarding whether or not this surgery was needed. He saw ___ who did not feel that the surgery was indicated. He saw ___ who did not feel that the surgery was indicated. He had several peer reviews from different orthopedic surgeons and no one found that the surgery was indicated.

At any rate, it appears that the surgery was approved and ___ performed the surgery on 10/1/02. ___ assisted.

With regards to this case, indications for the surgery were reviewed, yet the reviewer could not find any documented evidence of a neurologic deficit that was progressive in nature that would have been helped by this eighth surgical procedure on this man's back. This patient has an extreme amount of adhesions and scar tissue, and the reviewer finds that it would be very doubtful that any further surgery of any type would be helpful for this gentleman's back. The reviewer also agrees with several other orthopedic surgeons that have expressed opinions on this case that no further surgery should have been done unless there was an impending progressive neurologic lesion that was properly documented. The records that were submitted do not document such a lesion, and the reviewer finds that the records do not support the need for the surgery that was performed on 10/1/02. When surgery is not indicated and was not necessary, then the surgical assistant's fee would be inappropriate.

DISPUTED SERVICES

Dispute: Medical necessity for:

Assistant surgeon fees for: laminectomy/facetectomy/foraminotomy seg: thoracic, lamin-facet, foramin, disk exeric, re-explor lumbar, each add seg, arthrodesis lat transverse w/gft-iint fixa lumbar, remov post lumbar, each add seg, arthrodesis lat transverse w/gft-int fixa lumbar, remov post segmet instrum, explor spinal fusion, muscle myocutaneous, adj.tis.txfr.over 30 sq.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds that the surgery was not indicated on this patient's back, therefore, the surgical assistant's fee is not appropriate in this case. The patient, at 62 years of age, is not going to benefit from an eighth back operation that includes extensive surgery from the 12th thoracic to the 2nd sacral level unless there is a progressive neurologic deficit. The records do not support such a progressive neurologic deficit that would be corrected by this eighth surgical procedure.

___ 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,