

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-04-2821.M5**

MDR Tracking Number: M5-04-0106-01

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 (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 August 20, 2003.

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** 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 ASP percutaneous discectomy, med-surgical supplies, pharmacy services, recovery room, IV therapy, respiratory service, blood count, epidurography and noninv ear/pulse oxmtry, drugs incident to radiology, collection of venous blood and 76499 unlisted diagnostic radiograph were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This findings and decision is hereby issued this 2<sup>nd</sup> day of January 2004.

Patricia Rodriguez  
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 04/30/03 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 2<sup>nd</sup> day of January 2004.

David Martinez, Manager  
Medical Dispute Resolution  
Medical Review Division

DM/pnr

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION Amended**

December 11, 2003

**Re: IRO Case # M5-04-0106-01**

Texas Worker's Compensation Commission:

\_\_\_ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to \_\_\_ for an independent review. \_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, \_\_\_ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting 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 referral to \_\_\_ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the \_\_\_ reviewer who reviewed this case, based on the medical records

provided, is as follows:

History

The patient is a 61-year-old male who was injured in \_\_\_ and developed back pain that extended into the right lower extremity. The pain persisted despite medications, chiropractic treatment, physical therapy and epidural steroid injections. A February 2002 MRI showed a significant amount of change at L4-5. These changes were compatible with the patient's symptomatology, as was electromyography. Discography was negative for concordant pain at L4-5.

Requested Service(s)

ASP percutaneous discectomy, med-surg supplies, pharmacy services, recovery room, IV therapy, resp service, blood count, epidurography and noninv, ear pulse oxmtry, drugs incident to radiology, collection of venous blood and 76499 unlisted diagnostic radiograph 4/30/03

Decision

I disagree with the carrier's decision to deny the requested treatment and services.

Rational

The disputed procedure and services were medically necessary based on the patient's symptoms and diagnostic studies.

Based on the records provided for review, the only thing that is questionable is the discogram. The discogram was negative. Nevertheless, the same surgery was indicated as would have been indicated without discography.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.