

MDR Tracking Number: M5-04-0732-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 11-6-03.

The IRO reviewed fluoroscopy, unlisted procedure, supplies, and x-ray of L/S spine on 6-2-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO concluded that the fluoroscopy, unlisted procedure, and supplies **were** medically necessary. The IRO agreed with the previous determination that the x-ray of L/S spine **was not** medically necessary. 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. 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.

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

On 3-17-04, 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 requestor's response was untimely; therefore, no review can be made and no reimbursement recommended.

### **ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby **ORDERS** the respondent to pay for 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 for date of service 6-2-03 in this dispute.

This Order is hereby issued this 21<sup>st</sup> day of June 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION**

March 12, 2004

**Re: IRO Case # M5-04-0732**

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 Anesthesiology and Pain Management, 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 underwent a second epidural steroid injection on 6/2/03. Fluoroscopy, recovery room monitoring and supplies were utilized. Also, an L-S x-ray was obtained.

Requested Service(s)

Fluoroscopy, unlisted proc, supplies, x-ray-L/S spine 6/2/03

Decision

I disagree with the carrier's decision to deny the requested services, except for the x-ray L/S spine (72100-27). I agree with the decision to deny the x-ray L/S spine.

Rationale

It is reasonable, necessary and appropriate for a physician to use and charge for fluoroscopy, post-operative monitoring, supplies and care for a procedure performed in his office, just as it is if the procedure is performed in an ASC or hospital. Fluoroscopy is reasonable and necessary for the procedure, and has been endorsed by Medicare. Monitoring of the patient in the post procedure care unit is also necessary. It is also necessary to use supplies during the procedure, including sedation supplies. A higher acuity of care is needed during the procedure when the patient is sedated. There is no indication for an LS x-ray.

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