

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, 133.307 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 04/22/04.

The IRO reviewed diagnostic testing, somatosensory testing, electromyography, and EEG rendered on 09/15/03 that was denied based upon "U". The insurance carrier also denied these services as "G".

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 \$650.00** 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 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 May 28, 2004, 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.

On August 4, 2004 and again on September 29, 2004 the requestor sent fax withdrawing CPT Code 99070; therefore, this code is no longer in dispute.

- CPT Code 95920-27 (2) denied as "G". Per Rule 134.202(b) and the 2003 Encoder. Pro this code is not considered global to any other code billed on the same date of service. Therefore, reimbursement in the amount of \$127.74 ($\$51.10 \times 125\% = \$63.88 \times 2 = \127.76) is recommended. The table of disputed services reflects \$63.87 ($\$63.87 \times 2 = \127.74) per code as the amount in dispute.
- CPT Code 95925-27 denied as "G". Per Rule 134.202(b) and the 2003 Encoder. Pro this code is not considered global to any other code billed on the same date of service. Therefore, reimbursement in the amount of \$45.21 ($\$36.17 \times 125\%$) is recommended.

- CPT Code 95926-27 denied as “G”. Per Rule 134.202(b) and the 2003 Encoder. Pro this code is not considered global to any other code billed on the same date of service. Therefore, reimbursement in the amount of \$45.21 (\$36.17 x 125%) is recommended.
- CPT code 95927-27 denied as “G”. Per Rule 134.202(b) and the 2003 Encoder. Pro this code is not considered global to any other code billed on the same date of service. Therefore, reimbursement in the amount of \$45.21 (\$36.17 x 125%) is recommended.
- CPT Code 95861-27 denied as “G”. Per Rule 134.202(b) and the 2003 Encoder. Pro this code is not considered global to any other code billed on the same date of service. Therefore, reimbursement in the amount of \$37.34 (\$29.87 x 125%) is recommended.
- CPT Code 95822-27 denied as “G”. Per Rule 134.202(b) and the 2003 Encoder. Pro this code is not considered global to any other code billed on the same date of service. Therefore, reimbursement in the amount of \$221.61 (\$177.29 x 125%) is recommended.

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 09/15/03 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 Decision & Order is hereby issued this 30th day September 2004.

Marguerite Foster
 Medical Dispute Resolution Officer
 Medical Review Division

MF/mf
 Enclosure: IRO Decision

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NOTICE OF INDEPENDENT REVIEW DECISION

July 16, 2004

Re: IRO Case # M5-04-2647

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) 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 Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy 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 Envoy 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 Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service 12/30/02 – 10/13/03
2. Explanation of benefits
3. Neurophysiology monitoring report 9/15/03
4. Operative report 9/15/03
5. Post operative progress notes
6. Pre operative progress notes 2003

History

The patient was injured in ___ and developed back pain. Conservative management was not helpful. A lumbar interbody fusion at L4-5 and L5-S1 was performed either in early 2003 or late 2002. The patient developed recurrent pain, and a diagnosis was made of symptomatic hardware with probable pseudoarthrosis. Removal of hardware and re-exploration was recommended, It was further recommended that if pseudoarthrosis was

present that another fusion be accomplished, with the possibility of more hardware being applied.

Requested Service(s)

Diagnostic testing, somatosensory testing, electromyography, EEG 9/15/03

Decision

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

Rationale

Although it turned out that the monitoring may not have been necessary on 9/15/03, as fusion with instrumentation was not necessary, at the time the operation was planned it was not known that fusion with instrumentation would not be necessary. The monitoring was set up in case the fusion with instrumentation had to be performed. The monitoring was already being accomplished before the decision was made that fusion with instrumentation was not necessary. Under these circumstances, it was logical to continue the monitoring.

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

Daniel Y. Chin, for GP