

MDR Tracking Number: M5-04-2954-01

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 5-10-04.

The IRO reviewed Raglan (J2765), morphine (J2270), kenalog (J3301), and marcaine (J3490) on 7-8-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor did not prevail** on the majority of the medical necessity issues. The IRO concluded that the use of kenalog (J3301), and marcaine (J3490) on 7-8-03 were medically necessary. The IRO agreed with the previous determination that the use of Raglan (J2765), morphine (J2270) were not medically necessary. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 7-8-04, 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 following services were billed for date of service 5-20-03:

Code 76003-26 denied as "GLBL, G – the procedure code has been rebundled to a more comprehensive code that more accurately describes the entire procedure performed."

Rule 133.304(c) states that the explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s). A generic statement that simply states a conclusion such as "not sufficiently documented" or other similar phrases with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section. The carrier did not specify which service this was global to, therefore it will be reviewed according to the 96 MFG. Recommend reimbursement of \$52.00.

Codes 99499-RR and J3360 were denied as "DOP, M – reimbursed per the insurance carriers fair and reasonable allowance". The carrier paid \$68.00 and \$7.28 respectively. The requestor is seeking additional reimbursement of \$12.00 and \$17.72 respectively. Per Rule 133.307(g)(3)(D), the Requestor is required to discuss, demonstrate and justify that the payment being sought is a fair and reasonable rate of reimbursement. The requestor did not submit relevant information (i.e. redacted EOBs- with same or similar services) to show amount billed is fair and reasonable. Therefore, no additional reimbursement recommended.

Codes J3010, J2000, A4550, and J2765 were denied as “PAYU, F – this procedure/service code is reimbursed based on the usual & customary allowance using the geographic zip code area.” The carrier paid \$4.99, \$2.83, \$61.60, and \$4.78 respectively. The requestor is seeking additional reimbursement of \$25.01, \$7.17, \$13.40, and \$20.22 respectively. The requestor is seeking additional reimbursement of \$12.00 and \$17.72 respectively. Per Rule 133.307(g)(3)(D), the Requestor is required to discuss, demonstrate and justify that the payment being sought is a fair and reasonable rate of reimbursement. The requestor did not submit relevant information (i.e. redacted EOBs- with same or similar services) to show amount billed is fair and reasonable. Therefore, no additional reimbursement recommended.

The following services provided on date of service 7-8-03 had no EOBs submitted by either party. Per Rule 133.307(e)(2)(B), the requestor shall include a copy of each EOB, or if no EOB was received, convincing evidence of carrier receipt of that request. Requestor submitted a fax confirmation sheet as convincing evidence of carrier receipt of request for reconsideration. Per Rule 133.307(e)(3)(B), the carrier is required to provide any missing information including absent EOBs not submitted by the requestor. The carrier’s initial response to the medical dispute did not include the missing EOBs; therefore, reimbursement for the following services is recommended as follows:

62289-22	\$263.00
72240-26	\$76.00
76003-26	\$52.00
93005WP	\$26.00
94760WP	\$52.00
99354	\$106.00
00600-46	Recommend \$350.00. (10 RVUs + 2 time units = 12 x \$35.00 = \$420.00); however, requestor is seeking \$350.00.

DOP codes. The carrier did not raise the issue of fair and reasonable for a DOP code per Rule 133.1(8). Therefore, recommend reimbursement as billed for the following:

A4645	\$100.00
A4550	\$75.00
A4215	\$10.00
J3010	\$25.00
J2000	\$10.00
J3360	\$10.00 x 7 units = \$70.00
J7040	\$75.00

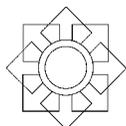
## ORDER

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 dates of service 5-20-03 and 7-8-03 in this dispute.

This Order is hereby issued this 1st day of December 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision



## Texas Medical Foundation

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### NOTICE OF INDEPENDENT REVIEW DECISION

August 17, 2004

Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: Injured Worker: \_\_\_\_\_  
MDR Tracking #: M5-04-2954-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC §133.308 which allows for medical dispute resolution by an IRO.

TMF 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 TMF physician reviewer who is board certified in anesthesiology which is the same specialty as the treating physician, provides health care to injured workers, and licensed by the Texas State Board of Medical Examiners in 1989. The TMF 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 TMF 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 37 year-old female suffered a back and neck injury on \_\_\_\_, resulting in continued pain in her neck and right arm. She underwent cervical epidural steroid injections on 05/20/03 and 07/08/03, during which she was given pre-operative sedation and monitored intravenous sedation in order to alleviate her anxiety and fear of needles.

### Requested Service(s)

Use of Reglan, Morphine, Kenalog, and Marcaine during a cervical epidural steroid injection on 07/08/03

### Decision

The use of Kenalog and Marcaine was medically necessary for this patient on 07/08/03.

The use of Morphine and Reglan was not medically necessary for this patient on 07/08/03.

### Rationale/Basis for Decision

By virtue of the fact that the patient had an epidural steroid injection (ESI), she must have some steroid. Kenalog is a form of steroid used in epidural steroid injections.

Marcaine can be used in the ESI if there is a significant amount of pain pre-operatively. In order to reduce the pain level quickly, this local anesthetic is added to the mix of the ESI medication.

Morphine as a pre-operative medication for an ESI is exceedingly over-kill, even if administered by a nurse anesthetist, especially if Versed, Fentanyl, and Valium are also used.

Reglan was probably used to forestall nausea from the opiates. Hence, if the Morphine was not used, then the need for the Reglan is gone.

The regimen used for pre-operative sedation of this patient with Morphine, Fentanyl, Versed, Reglan, and Valium is clearly outside of normal practice guidelines and could be

general anesthesia for many, if not most, patients.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon B. Strom, Jr.", written in a cursive style.

Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:vn

Attachment

**Information Submitted to TMF for TWCC Review**

**Patient Name:** \_\_\_\_

**TWCC ID #: M5-04-2954-01**

**Information Submitted by Requestor:**

- Cervical Epidural Steroid Injection notes 5/20/03, 7/8/03
- Radiology and MRI reports
- Physician notes, prescription
- Employee's request to change treating doctors

**Information Submitted by Respondent:**

- Medical Dispute Resolution Response
- Table of Disputed Services
- EOB
- Cervical Epidural Steroid Injection notes 5/20/03, 7/8/03