

MDR Tracking Number: M5-04-2980-01

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, 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 05-11-04.

The IRO reviewed discectomy, arthrodesis and anterior instrumentation, bone graft with microvascular anastomosis and radiologic examination for services rendered from 01-07-04 through 01-26-04 that were denied based "U".

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 07-02-04, 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 nor respondent submitted a denial for CPT code 72040 for date of service 02-23-04. Reimbursement in the amount of \$45.04 is recommended.

This Findings and Decision is hereby issued this 1st day of September 2004.

Medical Dispute Resolution Officer
Medical Review Division

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 Decision is applicable for dates of service 01-07-04 through 02-23-04 in this dispute.

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

, Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO Decision

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-04-2980-01
Name of Patient:	
Name of URA/Payer:	Stephen Esses, MD
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician:	John Bergeron, MD
(Treating or Requesting)	

August 27, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

August 27, 2004
Notice of Independent Review Determination

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

RE:

CLINICAL HISTORY

This now 41-year-old gentleman was apparently injured on 4/16/02, the details of which area not quite certain. It is stated that he slipped on a wet floor. Other notations discuss him falling down a rail which was made slick with rain, but regardless, on that day he fell, injuring his buttocks, his low back and his cervical spine. Since that point his cervical spine has come under great attention and is now the item in dispute. He has been treated with injections into his cervical spine. He has had imaging studies, including MRIs, CT myelograms, plain x-rays and ultimately a cervical discogram. Based upon the latter, the patient has had an anterior cervical discectomy, arthrodesis and anterior instrumentation.

REQUESTED SERVICE(S)

Discectomy, arthrodesis and anterior instrumentation, bone graft with microvascular anastomosis, and radiologic examination for dates in dispute 1/7/04 and 1/26/04.

DECISION

Approved. The anterior cervical discectomy performed on Mr. Martinez was warranted.

RATIONALE/BASIS FOR DECISION

This gentleman had, fortunately, a relatively uncommon problem. He had suffered a cervical injury, but despite extensive conservative management and negative imaging studies he continued to have cervical pain. The CT discogram, while it is a relatively unusual test, has a niche in appropriate medical care and Mr. Martinez finds himself in that niche. The discogram clearly showed an abnormality of the disc, but more importantly it showed that he had concordant pain. After exhaustive conservative management and a positive discogram, it is entirely reasonable to proceed on with a discectomy and fusion. Parenthetically, it is noted on Dr. Esses' note of May 10 of this year four months post-operatively that Mr. Martinez's neck is doing well and his range of motion has improved and the focus of his problem has now been directed at his lumbar spine, indicating that the cervical spine problem has abated.