

THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER.
SOAH DOCKET NO: 453-05-2804.M5

Amended MDR Tracking Number: M5-04-3451-01 (Previously M5-03-3369-01)

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 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a dispute resolution review was conducted by the Medical Review Division regarding a medical payment dispute between the requestor and the respondent named above. This dispute was received 8-25-03.

This AMENDED FINDINGS AND DECISION supersedes all previous Decisions rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 4-30-04 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 6-8-04. An Order was rendered in favor of the Requestor. The Requestor appealed the Order to an Administrative Hearing because of issues that were decided by the Medical Review Division.

I. DISPUTE

Whether there should be additional reimbursement for inpatient hospitalization.

II. RATIONALE

- a. The IRO reviewed inpatient hospitalization services that included: semi-private room, intensive care-surgical, pharmacy, supplies, sterile supply, lab X2, radiology X2, chest X-Ray, radiology-diagnostic, surgery, anesthesia, blood administering, respiratory services X2, physical therapy, pulmonary functions and cardiology rendered from 9-13-02 through 9-16-02 that were denied based upon "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.

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

On 11-4-03, 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 respondent reduced payment of supply/implantable based upon "M – Allowance based upon invoice cost of device plus 10%." The requestor failed to submit medical records to support fee dispute and challenge insurance carrier's position per Rule 133.307(g)(3)(B). Therefore, reimbursement is not recommended

The respondent reduced payment of facility charges ICU/CCU rendered on 9-13-02 based upon "F – Recommended allowance is based on an INTRACORP Nurse Review." The requestor failed to submit medical records to support fee dispute and challenge insurance carrier's position per Rule 133.307(g)(3)(B). Therefore, reimbursement is not recommended

The respondent denied payment for inpatient services based upon "U – Disallowed: Based on a Utilization Review Performed by our physician advisor, medical necessity not established. Disallowed: Based upon a nurse review, amount appears to be an overcharge and/or excessive for services rendered." A review of the Peer review report states in part:

"The records in other words fail to establish the medical necessity for continued acute care inpatient length of stay beginning Saturday, September 14, 2002.

The records documents excessive and unreasonable charges for operating room time and unbundling so that there are excessive and unreasonable charges and/or duplication of charges for needles, toothpaste, toothbrush, wheels for walker, video, nerve stimulator, gloves, surgical headlight, surgical cath, shoe covers, prep pads, suction tubing, syringes, multiple hospital pillows, surgical blades and sponges, surgical cameral, casting material, heat moisture exchanger, endotracheal tube, Ace bandages, symphony machine with yank kauer suction, 2 tennis balls, presumably to be cut and placed under the front stand of the rolling walker, unidentified connectors and stethoscope as well as sutures, Frazier tip suction and applicator. There excessive and unreasonable charges for Miami J. collar for unidentified electrodes for the symphony PCS disposable, wedge tricortical graft, Stryker burrs, urinal, cardiac monitor and surgical implants. There excessive and unreasonable duplication of charges for respiratory services such as incentive spirometry, volumetric exercises and oxygen and Albuterol. There are charges for IV piggyback handling and PHisoHex and medications used for anesthesia, as well as the anesthesia time itself. There is a charge for the

Philadelphia collar in addition to excessive and unreasonable charge for a Miami J collar which is not adequately explained in the records provided for review.”

The requestor failed to submit medical records to refute the issues of unbundling, duplicate charges or inadequate documentation and challenge insurance carrier’s position per Rule 133.307(g)(3)(B). Therefore, reimbursement for the following items **is not** recommended:

SERVICE	AMOUNT BILLED
Needles	\$3.00 + \$21.00 = \$24.00
Toothpaste	\$5.00
Toothbrush	\$5.00
Wheels for Walker	\$114.25
Video	\$2428.00
Nerve stimulator	\$265.00
Gloves	\$16.50 X 3 = \$49.50 +\$14.00 +\$12.25 + \$168.00+ \$204.00 = \$447.75
Surgical headlight	\$463.00
Surgical Cath	\$14.50
Shoe Covers	\$3.00
Prep Pads	\$3.00 X 20 = \$60.00
Suction Tubing	\$12.00 X 3 = \$36.00
Syringes	\$6.00 X 9 = \$54.00
Multiple hospital pillows	\$75.00
Surgical blades	\$3.00 X 2 = \$6.00
Surgical sponges	(\$35.50 X 3) \$106.50 + \$7.50 +\$7.00 +\$7.00 = \$128.00.
Surgical camera	\$661.00
Casting material	\$11.35
Heat moisture exchanger	\$14.00 X 3 = \$42.00
Endotracheal tube	\$15.00 X 2 = \$30.00
Ace bandages	\$16.75 X 4 = \$67.00
Symphony mach with yank kauer suction	\$291.00 + \$26.75 = \$317.75
2 Tennis balls	\$4.50 X2 = \$9.00
Unidentified connectors & stethoscope	\$9.50 X2 + \$33.50 = \$52.50
Sutures	\$250.00
Frazier tip suction & applicator	(\$29.90 X2) \$59.80 + (\$525.00 X2) \$1050.00 = \$1109.80
Miami J. Collar	\$750.00
Unidentified electrodes	\$13.50 + \$67.50 = \$81.00
Wedge Tricritical Graft	\$1800.00
Stryker burrs	\$750.00 X2 = \$1500.00
Urinal	\$10.00

Cardiac monitor	\$73.00
Surgical implants	\$322.00 + \$11.50 + \$1086.00 + \$4301.00
Incentive spirometry	\$36.80 X3 = \$110.40 + \$147.20 + \$73.60 = \$331.20
Volumetric exercises	\$50.00
Oxygen	\$10.69 X21 = \$224.49
Albuterol	\$8.80 X 12 = \$105.60
IV piggyback handling	\$18.00 X 13 = \$234.00
PHisoHex	\$71.30
Medications used for anesthesia	Unknown
Anesthesia time	\$6900.00
Philadelphia Collar	\$114.95
TOTAL Amount Billed for Services	\$24,644.94

- c. The requestor billed \$71,568.65 for the inpatient admission.
- d. $\$71,568.65$ minus $\$24,644.94 = \$46,923.71$. Rule 134.401(c)(6)(A)(i), “To be eligible for stop-loss payment for the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” $\$46,923.71$ exceeds $\$40,000.00$; therefore, stop-loss reimbursement applies to this admission.
- e. Rule 134.401(c)(6)(A)(iii), “If audited charges exceed the stop-loss threshold, reimbursement for the entire admission shall be paid using a Stop-Loss Reimbursement Factor (SLRF) of 75%.
- f. The respondent reimbursed the requestor $\$5,979.80$ for inpatient admission.
- e. The total amount in dispute is $\$46,923.71 \times 75\% = \$35,192.78$.
- f. The difference between amount paid and amount due = $\$29,212.98$.

III. AMENDED DECISION & 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 9-13-02 through 9-16-02 in this dispute.

The above Amended Findings and Decision are hereby issued this 4th day of October 2004.

Medical Dispute Resolution Officer

Hilda H. Baker
Medical Dispute Resolution

Medical Review Division

Medical Review Division

October 31, 2003

Amended April 1, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-03-3369-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified and specialized in Orthopaedic Surgery. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ is a 63-year old gentleman who originally injured his back on ___. He has a long extensive history of continuing unrelenting neck problems since the original injury occurred. He has gone through much conservative treatment and has gone through three major surgical procedures on his neck. ___, a neurosurgeon, did his first procedure in June of 1995. He did an anterior cervical fusion with discectomy and decompression at the C4/5 and C5/6 levels. This was done to decompress the nerve roots at those two levels. The patient continued to have problems with his neck and had pain radiating down the arm. Conservative treatment failed to relieve his symptoms.

He was then referred to ___ who performed a second operation on him in April of 200, a C3/4 anterior cervical fusion and C6/7 fusion anterior cervical fusion with discectomy and decompression. Following this procedure he had some complication with non-

functioning of one of his vocal cords, and he apparently did not get any relief of symptoms from this procedure.

___ continued to have ongoing problems with his neck. He was determined to have a non-union at the C6/7 fusion site. The hardware was symptomatic at that level also. Therefore, a third operation was necessary.

On September 13, 2002 the third operation was done in order to repair the pseudoarthrosis of the fusion at C6/7 and to remove the hardware that was symptomatic. Also, the procedure was to do an anterior cervical fusion and discectomy with instrumentation at C7/T1 level. This is a very extensive procedure that requires more than a one-day hospital stay.

This patient remained in the hospital for three days and underwent the she surgical procedure without any operative complications. He was then released from the hospital on September 16, 2002. The discharge summary states that he had no difficulty swallowing and there was no neurologic deficit noted. His incisions were noted to be clean with no evidence of infection.

DISPUTED SERVICES

Under dispute is the medical necessity of semi-private room, intensive care – surgical, pharmacy, supplies, sterile supply, lab x 2, radiology x 2, chest x-ray, radiology – diagnostic, surgery, anesthesia, blood administering, respiratory services x 2, physical therapy, pulmonary function and cardiology from 9/13/02 through 9/16/02.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds that the disputed procedures and related charges are reasonable and necessary for the treatment of this patient. The length of hospital stay is certainly not excessive. This was a major operative procedure and the patient could not possibly be discharged any sooner than his day of discharge. The length of time was not excessive and the reviewer finds the services to be reasonable and necessary.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,