

MDR Tracking Number: M5-04-3565-01

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 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on June 21, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The three-level lumbar discography with follow up CT scan, contrast material, needles, cefazolin sodium and lidocaine HCL on 07-15-03 **were found** to be medically necessary. The injections, localization, tomography, X-ray lumbosacral, X-ray chest, electrocardiogram, pulmonary studies, prolonged services, surgical trays, fentanyl citrate, diazepam, metoclopramide HCL, unclassified drugs, prescription drugs and anesthesia services on 07-15-03 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 07-15-03 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 Order is hereby issued this 3rd day of September 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

August 23, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-3565-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in the area of Pain Management and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: office notes and radiology report.

Information provided by Respondent: designated doctor exams.

Information provided by Treating Doctor: office notes and operative report.

Information provided by Spine Surgeon: office notes, operative and radiology reports.

Clinical History:

This claimant was injured at work on ____. The claimant developed intense low back pain eventually developing bilateral leg symptoms. The claimant was initially treated by a chiropractor on 4/22/02, in which he documented the claimant's complaint of lumbar pain radiating into the legs, mid back, and neck. The claimant was treated with

conservative chiropractic treatment and then referred for epidural steroid injections. He had 2 epidural steroid injections, which, unfortunately, did not provide the claimant with significant sustained relief.

The claimant was then referred for an orthopedic surgery consultation on 9/26/02. The surgeon personally reviewed the claimant's x-rays and MRI scan, which he stated showed central disc herniations at L4/5 and L5/S1. The claimant returned to the orthopedic surgeon on 1/27/03 after having failed epidural steroid injections. The surgeon again reviewed the claimant's MRI stating that it showed a disc bulge at L5/S1. He recommended the claimant undergo 4-level discography at L2/L3, L3/4, L4/5, and L5/S1, which was performed on 7/15/03. In conjunction with the lumbar discography, the claimant also had lumbosacral x-rays, chest x-ray, EKG, and pulmonary studies. He also received intravenous sedation for the lumbar discography consisting of 8 mg of Versed and 7 cc of fentanyl as well as 5 mg of Reglan and 15 mg of Valium.

The discogram demonstrated no pain response at L2/3, L3/4, or L5/S1 with normal disc architecture at each of the 3 levels. At L5/S1 a posterocentral disc herniation and full-thickness annular tear was noted at L5/S1 with concordant lumbar pain upon injection of the disc. Based on this discogram, the claimant subsequently underwent L5/S1 fusion surgery by Dr. E on 12/23/03. That fusion consisted of an anterior L5/S1 discectomy, interbody fusion, and cage procedure.

Disputed Services:

Injections, discography, localization, contrast material, CAT scan, tomography, X-ray-lumbosacral, X-ray-chest, electrocardiogram, pulmonary studies, prolonged services, surgical trays, needles, cefazolin sodium, fentanyl citrate, lidocaine, HCL, diazepam, metoclopramide HCL, unclassified drugs, Rx drugs, and anesthesia services on 07/15/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that three-level lumbar discography with follow up CT scan was medically necessary. The contrast material, needles, cefazolin sodium and lidocaine HCL used in performing the discogram were medically reasonable and necessary. Injections, localization, tomography, X-ray lumbosacral, X-ray chest, electrocardiogram, pulmonary studies, prolonged services, surgical trays, fentanyl citrate, diazepam, metoclopramide HCL, unclassified drugs, prescription drugs and anesthesia services were not medically necessary in this case.

Rationale:

This claimant was apparently being considered for surgery. It is medically reasonable and necessary to perform discography to evaluate for concordant pain at the disc, which is being considered for fusion surgery. The surgeon, himself, documents that he personally reviewed the MRI studies, and documents that the MRI showed bulging and/or herniated discs at L4/5 and L5/S1, it was medically reasonable and necessary to test both the L4/5 and L5/S1 discs and 1 additional disc as a control level. Therefore, a 3-level discogram would have been medically reasonable and necessary, but not a 4-level discogram.

By its very nature, discogram is meant to be a provocative test, which, therefore, dictates that it be done with the claimant either awake or minimally sedated. In this case, the claimant was heavily sedated with large amounts of Versed, fentanyl, and Valium, all of which were medically unreasonable and unnecessary along with the anesthesia services to provide the sedation, as such a deep level of sedation would only serve to prevent the claimant from being able to accurately report what he was feeling during the discogram. To a very large, almost predominant, extent, the claimant's subjective response to provocative discography is the cornerstone data upon which fusion surgery decisions are then made. To heavily sedate a patient during discography, therefore, almost certainly would provide inaccurate and possibly invalid subjective information from the claimant. Therefore, anesthesia services, fentanyl, Valium (diazepam), and Versed, as well as metoclopramide were all not medically reasonable or necessary.

This claimant is described as being a healthy 21-year-old male at the time of discography. He had no medical history for which lumbar x-ray, chest x-ray, EKG, or pulmonary studies would have been indicated as part of the preoperative evaluation for discography. Therefore, lumbosacral x-ray, chest x-ray, EKG, and pulmonary studies were all not medically reasonable or necessary in order to determine whether the claimant was able to undergo discography. More over, anesthesia services and intravenous sedation are not medically reasonable or necessary for performance of discography. These tests were also not medically reasonable or necessary to determine whether the claimant was a candidate of for anesthesia. Even if anesthesia services were indicated, which they clearly were not, there would have been no medical reason or necessity for performing these tests as part of a pre-anesthetic assessment in an otherwise healthy 21-year-old male.

Therefore, the only services that are medically reasonable and necessary in this case are 3-level discography with follow-up CT scan, Septazole and sodium for antibiotic prophylaxis, lidocaine to anesthetize the skin, and needles for performing lumbar discography by Dr. L on 7/15/03. Intravenous fluids would be necessary only to the extent that they were necessary for providing prophylactic intravenous antibiotics (cefazolin). No other services, diagnostic test, drugs, or charges for anesthesia services are medically reasonable or necessary regarding this claimant's work injury, or workup, or the proposed lumbar spine fusion.

Sincerely,