

Amended MDR Tracking Number: M5-04-3837-01 (**Previously M5-04-1295-01**)

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 01-09-04.

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The Medical Review Division's Decision of 06-08-04 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 07-05-04. The medical fee portion of the dispute was rendered in favor of the Respondent. An Order was rendered in favor of the Requestor for the medical necessity portion of the dispute. The Requestor appealed the Order to an Administrative Hearing disagreeing with the findings there was a duplicate billing of services.

The IRO reviewed lumbar discography rendered on 05-21-03 that was 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.

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 03-12-04, 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 table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
05-21-03	72295-WP	\$666.00	\$0.00	F	\$462.00	96 MFG RADIOLOGY/NUCLEAR MEDICINE GR (I)(A)(2)	The CPT descriptor only allows for one reimbursement of the billed service and does not include separate reimbursement per level as indicated in the position statement of the requestor. No reimbursement recommended.
TOTAL		\$666.00	\$0.00				Requestor is not entitled to any reimbursement.

### 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 for the lumbar discography as determined to be medically necessary by the IRO decision and 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 Amended Findings and Decision is applicable for date of service 05-21-03 in this dispute.

This Amended Findings and Decision and Order are hereby issued this 16<sup>th</sup> day of July 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

March 11, 2004

MDR #: M5-04-1295-01

**New MDR #: M5-04-3837-01**

IRO Certificate No.: IRO 5055

\_\_\_ 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.

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.

#### REVIEWER'S REPORT

Information Provided for Review:

Correspondence

Letter of medical necessity

Procedure report

Clinical History:

Apparently, provocative discography was performed as part of a spine generator workup. Findings indicated severe degenerative disc disease at 3 levels with concordant pain at 1 level.

Disputed Services:

Lumbar discography

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the lumbar discography in dispute was medically necessary in this case.

Rationale:

Back pain issues must be evaluated in logical fashion in order to address them with proper therapeutic modalities. Specifically, back pain generator sites must be determined before defining treatment. It was indicated in the discography report that facet injections had failed to demonstrate facet complexes as valid pain generator sites. It is common practice to suggest provocative discography after facet injections/medial brach injections have indicated that pain generator sites are not likely to be related to facet joint complexes.

Sincerely,