

MDR Tracking Number: M5-04-4329-01

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 July 16, 2004.

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 \$460.00** 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 the only issue** to be resolved. The diagnostic testing and electromyography **were 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 02-02-04 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 15th day of October 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

October 11, 2004

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

Re: Medical Dispute Resolution
MDR #: M5-04-4329-01
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 Board Certified in Spine Surgery 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:

- certificate of medical necessity 09/20/04
- correspondence and publications
- operative report with nerve conduction study 02/03/04

Clinical History:

This male claimant suffered a work-related injury on ___. He underwent surgery according to this operative note on 02/03/04. Intra-operative nerve monitoring was performed.

Disputed Services:

Diagnostic testing and electromyography on 02/02/04.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that diagnostic testing and electromyography during a surgical procedure on 02/02/04 was medically necessary in this case.

Rationale:

Report of the operation dated 02/03/04 is that of a 2-level decompression and fusion in the lumbar spine at L4-L5 and L5-S1 with placement of pedicular screws, foraminotomies, laminectomies, partial carpectomies, etc. (please refer to the operative note). One can see there were 18 procedures that were performed during this operation.

The most recent *Journal of Neurosurgery to the Spine*, October of 2004, lists the lead article written by lead author, Dr. Krassiokov. Appeared in this article specifically is *Report on Intraoperative Monitoring During Complex Lumbosacral Procedure*. Conclusions of the article are that combined SSEP and EMG monitoring during surgery is a practical and reliable method for obtaining optimal electrophysiological feedback during complex neurosurgical procedures involving the conus medullaris and cauda quina. Furthermore, they conclude that this monitoring reduces the risk of perioperative neurologic complications. Therefore, intraoperative nerve monitoring is certainly medically necessary.

Sincerely,