

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 January 29, 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 \$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 the only issue** to be resolved. The intraoperative neurophysiology testing, somato sensory testing, supplies and materials rendered on ___ were found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the intraoperative neurophysiology testing, somato sensory testing, supplies and materials.

ORDER

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 ___ 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 5th day of November 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

November 1, 2004

Re: IRO Case # M5-05-0376

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board certified in Neurological Surgery, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Operative report ____
4. Recordings of monitoring ____
5. Letter from lawyer for requestor

History

The patient is a 35-year-old female who was injured in _____. The patient had back difficulties, and this led to considerable surgery, with the surgery now being debated

occurring on _____. The patient had a problem of pseudoarthrosis and spinal stenosis, and the surgery included exploration of her fusion, along with posterior segmental instrumentation, repeat laminectomy and bilateral foraminotomies at L4-5. There also was a posteriolateral fusion.

Requested Service(s)

Intraoperative neurophysiology testing, somato sensory testing, supplies & materials _____

Decision

I disagree with the carrier's decision to deny the requested testing and associated supplies.

Rationale

The patient had considerable potentially nerve-damaging procedures, and therefore she was monitored for such damage throughout the procedure. The operative report indicates that the surgeon was aware of this monitoring being accomplished. In addition to monitoring, there was recording of stimulation testing after pedicle screws had been placed. Such monitoring is fairly routine in most centers where extensive spinal surgery is performed. The fact that the recordings were present, and the surgeon was aware of them is indicated by the operative note on _____. As far as someone being physically present at the time of these of these recordings were being obtained, this is not necessary, considering that recordings can be monitored remotely.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.