

MDR Tracking Number: M5-05-0505-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-04-04.

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 nerve testing add on, somato sensory testing and muscle testing-2 limbs on 10-20-03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c); in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(6); 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 date of service 10-20-03 in this dispute.

This Order is hereby issued this 8<sup>th</sup> day of February 2005.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

DA/da

Enclosure: IRO decision

February 4, 2005

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

Re: Medical Dispute Resolution  
MDR #: M5-05-0505-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: IRO 5055

Dear \_\_\_\_:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI 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 Independent Review, Inc. 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 Orthopedic Surgery, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme  
Secretary & General Counsel

GP:thh

**REVIEWER'S REPORT**  
**M5-05-0505-01**

**Information Provided for Review:**

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

Information provided by Requestor:

- Correspondence
- EMG/NCV 01/12/04
- Procedure note 03/28/03

Information provided by Orthopedic Surgeon:

- Office notes 02/25/03 – 06/08/04
- Operative reports 07/02/03 – 10/20/03
- Radiology reports 10/29/02 – 09/30/03
- Office notes 12/12/03 – 12/30/03

**Clinical History:**

This claimant was injured on his job on \_\_\_\_, He underwent previous cervical decompression on L5/S1 with stabilization on October 20, 2003. Parent disc was complicated by a postoperative PSF leak, requiring repair. The patient continued to have right-sided L5/S1 radiculopathy, and Dr. Frank Garcia recommended conservative management. Evidently, the surgery the patient received on July 2, 2003, which included a repeat posterolateral interbody fusion at the L5/S1 level by Dr. Garcia, was quite complicated and intraoperative monitoring was requested by Dr. Garcia.

**Disputed Services:**

Intraoperative nerve testing add on, somatosensory testing and muscle testing-2 limbs on 10/20/03.

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the testing in dispute on 10/20/03 was medically necessary in this case.

**Rationale:**

This patient failed lumbar decompression surgery with continued symptoms. The initial surgery was complicated by a postoperative dural tear. Repeat spinal surgery and, many times, primary spinal surgery benefits from intraoperative monitoring such as this patient received. The fact that this was a redo operation almost necessitates the use of intraoperative monitoring to prevent neural compromise.