

# MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

## Retrospective Medical Necessity Dispute

### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> (X) HCP ( ) IE ( ) IC	<b>Response Timely Filed?</b> (X) Yes ( ) No
Requestor's Name and Address  Texas Back Institute P.O. Box 262409 Plano, TX 75026	MDR Tracking No.: M5-05-2421-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address  Liberty Mutual Fire Insurance, Box 28	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

### PART II: SUMMARY OF DISPUTE AND FINDINGS – MEDICAL NECESSITY SERVICES

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
5-19-04	5-19-04	4 units of CPT code 38220	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor did not **prevail** on the disputed medical necessity issues.

### PART IV: COMMISSION DECISION AND ORDER

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Ordered by:

Donna Auby

8-30-05

Authorized Signature

Typed Name

Date of Order

### PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: \_\_\_\_\_ Date: \_\_\_\_\_

**PART VI: YOUR RIGHT TO REQUEST A HEARING**

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

August 26, 2005

July 11, 2005

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

Re: Medical Dispute Resolution  
MDR #: M5-05-2421-01  
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  
General Counsel

GP:thh

**REVIEWER'S REPORT**  
**M5-05-2421-01**

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**Information Provided for Review:**

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

Information provided by Requestor:

Office notes 12/13/03 – 11/08/04

FCE 11/16/04 – 12/10/04

Nerve conduction study 10/16/03

Operative report 05/19/04

Radiology reports 10/01/03 – 05/20/04

Information provided by Respondent:

Designated doctor review

**Clinical History:**

The patient evidently received 5 bone marrow aspirations from the same site in the posterior iliac crest for harvesting and mixing with bone graft substitute to supplement the interbody fusion. One of these was paid by the insurance carrier, and the other 4 were denied.

**Disputed Services:**

Bone marrow – aspiration only on 05/19/05.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that bone marrow aspirations on 05/19/05 (4 in addition to the one paid by the carrier) was not medically necessary in this case.

**Rationale:**

The first bone marrow aspirate was medically necessary. The reviewer believes the four in dispute were not medically necessary to aspirate, as all of the aspirations were obviously used in the same mixture. Therefore, the reviewer would liken this to duplications because the aspirations were not, based on the records provided for review, used in separate sites and for separate procedures.