

# Retrospective Medical Necessity Process

Retrospective medical necessity dispute – a dispute that involves a review of the medical necessity of health care that has already been provided. (Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) Rule 133.305(a)). The dispute is reviewed by an Independent Review Organization (IRO) pursuant to Tex. Lab. Code § 413.031 and related rules, including Rule 133.308.

A request for a retrospective review can be made by health care providers, qualified pharmacy processing agents, or injured employees who have provided or paid for medical services and are seeking payment or reimbursement. (Rule 133.308(f)).

1. If the insurance carrier denies payment based on a determination that the health care services were not medically necessary, a request for reconsideration may be filed.
2. The health care provider or qualified pharmacy processing agent shall submit the request for reconsideration no later than ten (10) months from the date of service. (Rule 133.250(b)).
3. Under Rule 133.270(f), the injured employee may request, but is not required to request, reconsideration of the denial from the insurance carrier prior to requesting dispute resolution.
4. If the request for reconsideration is denied, the health care provider, qualified pharmacy processing agent, or injured employee has 45 calendar days from the date of the denial to request an IRO by filing the Form LHL009, *Request for Review by an Independent Review Organization*, with the insurance carrier or utilization review agent (URA), whichever issued the denials, attaching the two requests and two denials. (Rule 133.308(h)).
5. The insurance carrier or URA will forward the request for an IRO to the Texas Department of Insurance (TDI) within one working day of receipt by the insurance carrier or URA. TDI will review the request for IRO review, assign an IRO, and notify the parties about the IRO assignment. (Rule 133.308 (h) and (j)).
6. The insurance carrier or its URA submits documents to the IRO. (Rule 133.308(k)).
7. The IRO will render a decision no later than the 30th day after the IRO receives its fee. (Rule 133.308(n)). The injured employee may not be required to pay any portion of the cost of an IRO review. (Rule 133.308(q)).
8. If the IRO upholds the decision of the insurance carrier or URA, the decision (regardless of whether it is a network or non-network claim) must be appealed by requesting a medical contested case hearing with TDI-DWC. A Form DWC049, *Request to Schedule a Medical Contested Case Hearing (MCCH)*, and a copy of the IRO decision must be filed with TDI-DWC's Chief Clerk of Proceedings no later than the 20th day after the date the IRO decision is sent to the party. (Tex. Lab. Code § 413.0311, Tex. Ins. Code § 1305.356, and Rule 133.308(s)).
9. If TDI-DWC upholds the decision of the IRO, the injured employee can appeal the TDI-DWC decision in the Travis County District Court no later than 45 calendar days from the date TDI-DWC mailed the party the decision of the Hearing Officer. The mailing date is considered to be the fifth (5th) day after the date the Hearing Officer's decision was filed with TDI-DWC. (Travis County Courthouse, 1000 Guadalupe Street, 3rd Floor, Austin, Texas 78701, telephone number (512) 854-9457.)

