

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 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(q)(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 office visits, physical therapies, neuromuscular re-education, and work hardening program/work conditioning were found to be medically necessary. The supplies, neuromuscular stimulator and durable medical equipment were not medically necessary. The respondent raised no other reasons for denying reimbursement for these office visits, physical therapies, neuromuscular re-education, and work hardening program/work conditioning charges.

This Finding and Decision is hereby issued this 10th day of April 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer

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 dates of service 9/12/01 through 12/21/01 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 10th day of April 2003.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/crl

NOTICE OF INDEPENDENT REVIEW DECISION

December 30, 2002

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-0226-01
IRO Certificate #: 4326

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___ health care professional has signed a certification statement stating 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 the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This 47 year old male sustained a work-related injury to on ___ when his foot was caught on a pallet causing him to fall, injuring his neck and right foot. Initial foot x-rays in February 1999 revealed a fracture of the tibial sesamoid bone in the right foot. Physical therapy was prescribed and initiated for a period of 2 weeks. Due to persistent foot pain, an MRI was done and revealed bone contusion of the first metatarsal head and right plantar sesamoid. In May 2001 the patient underwent surgical correction of an acquired hallux valgus and excision of medial plantar sesamoid bone and had two sessions of rehabilitation post-operatively before changing doctors.

On 03/31/99, an EMG revealed early left C6 and C7 radiculopathy and a subsequent MRI of the cervical spine revealed a C4-5 and C5-6 disc protrusion. In addition, a CT myelogram revealed C4-5 right paracentral annular bulge producing central spinal canal stenosis.

On 08/10/01, the patient selected a chiropractor as his treating doctor and was initially evaluated on 08/23/01. His diagnoses included cervical radiculopathy, cervical sprain, neck pain, weakness,

muscle spasms, status post right great toe acquired hallux valgus surgical repair and medial plantar sesamoid surgical excision. The chiropractor's plan of care, from 09/12/01 through 12/21/01, included office visits, myofascial release, joint mobilization, supplies, physical medicine exercise, neuromuscular re-education, durable medical equipment, neuromuscular stimulator, manual traction, unusual travel and work conditioning.

Requested Service(s)

Office visits, myofascial release, joint mobilization, supplies, physical medicine exercise, neuromuscular re-education, durable medical equipment, neuromuscular stimulator, manual traction, unusual travel and work conditioning.

Decision

It has been determined that the office visits, myofascial release, joint mobilization, physical medicine exercise, neuromuscular re-education, manual traction, and work hardening/conditioning were medically necessary.

It has been determined that the unusual travel, supplies, neuromuscular stimulator, and durable medical equipment, were not medically necessary.

Rationale/Basis for Decision

The medical records submitted for review do not substantiate the medical necessity for the unusual travel, supplies, neuromuscular stimulator, and durable medically equipment. However, the medical necessity for the office visits, myofascial release, joint mobilization, therapeutic procedures, neuromuscular re-education and work conditioning is substantiated.

Post-operatively, the patient was not effectively progressed through phase I clinical application and was not introduced to a secondary phase of care prior to changing doctors on 08/10/01. The chiropractor's evaluation, on 08/23/01, noted limitation of motion and function that warranted progression into a post-operative rehabilitation program and began treatment that included office visits, myofascial release, joint mobilization, therapeutic procedures, and neuromuscular re-education. The functional capacity evaluation done on 11/19/01 indicated that the patient warranted progression into a secondary phase of therapeutic care that included work conditioning. This treatment algorithm is evident in Unremitting Low Back Pain North American Spine Society Phase III Clinical Guidelines For Multidisciplinary Spine Care Specialists, published in 2000. Therefore, the office visits; myofascial release, joint mobilization, therapeutic procedures, neuromuscular re-education, manual traction and work conditioning were medically necessary. However, the unusual travel, supplies, neuromuscular stimulator, and durable medically equipment were not medically necessary.

Sincerely,