

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-03-2810.M5**

MDR Tracking Number: M5-03-0800-01

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 IRO determined that services from 11/19/01 through 12/3/01 were medically necessary and that the services from 12/4/01 through 12/18/01 were not medically necessary. The amount to be reimbursed for the medically necessary services exceeds that of the services not medically necessary. Therefore, 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 disputed work hardening program from 11/19/01 through 12/3/01 was found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 15<sup>th</sup> day of January 2003.

Noel L. Beavers  
Medical Dispute Resolution Officer  
Medical Review Division

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 11/19/01 through 12/3/01.

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 15<sup>th</sup> day of January 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

January 2, 2003

### **NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-03-0800-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on \_\_\_ external review panel. \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

#### Clinical History

This case concerns a 30 year-old male who sustained a work related injury on \_\_\_. The patient reports that while cutting a piece of metal, a piece of silver became lodged in his left leg. The patient had radiographic examination that was unremarkable. The patient's assessment was antalgic gait and lower extremity pain with local paresthesia. He was referred for gait training and strengthening. The patient was also referred for aquatic therapy, ultrasound, massage, electrical myostimulation, whirlpool/aquatics, pool exercises, active exercises, kinetic activities, and a strengthening program.

#### Requested Services

Work Hardening Program from 11/19/01 through 12/18/01.

#### Decision

The Carrier's denial of coverage for these services is partially overturned.

### Rationale/Basis for Decision

\_\_\_ chiropractor reviewer has determined that after reviewing all the medical records provided, the patient sustained a work related injury on \_\_\_\_. \_\_\_ chiropractor reviewer noted that the patient's injury was contained to the ankle. \_\_\_ chiropractor reviewer also noted that the patient reported pain and swelling in the injured ankle. \_\_\_ chiropractor reviewer explained that an injury sustained to the ankle does not justify the entire work hardening program. However, \_\_\_ chiropractor reviewer also explained that the patient did require some work hardening to treat his condition. Therefore, \_\_\_ chiropractor consultant concluded that the work hardening from 11/19/01 through 12/3/01 was medically necessary to treat this patient's condition. \_\_\_ chiropractor consultant further concluded that work hardening from 12/4/01 through 12/18/01 was not medically necessary to treat this patient's condition.

Sincerely,

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