

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

SOAH DOCKET NO. 453-03-3877.M5

MDR Tracking Number: M5-03-0948-01

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 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, mechanical traction, electrical stimulation, therapeutic exercise, neuromuscular re-education, manual traction therapy, myofascial release/soft joint mobilization and analysis of information were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these office visits, mechanical traction, electrical stimulation, therapeutic exercise, neuromuscular re-education, manual traction therapy, myofascial release/soft joint mobilization and analysis of information charges.

This Finding and Decision is hereby issued this 6th day of June 2003.

Carol R. Lawrence
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 1/18/02 through 7/8/02 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 6th day of June 2003.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division
DRM/crl

May 13, 2003

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
4000 South IH-35, MS 48
Austin, TX 78704-7491

Re: MDR #: M5-03-0948-01
IRO Certificate No.: 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Certified in Chiropractic Medicine.

Clinical History:

This 46-year-old male injured his lumbar region, right knee and right ankle in a work-related accident on _____. He was transported to the emergency room. Right knee MR imaging on 02/28/00 revealed an internal derangement. MR imaging of the lumbar spine on 07/31/01 showed a 2.0 mm paracentral discal substance herniation on the left side in the L4-L5 region. Right ankle MR imaging on 08/22/01 showed a tear of the talofibular ligament. CT scan of the right ankle on 12/31/01 revealed tenoavicular

osteophytes at the joint spaces, mild degenerative changes at the fibular and distal tibial region, and osteophytosis.

Following evaluation by a D.O. on 01/17/02, physical therapy was advised, and medication (Skelaxin, Celebrex and Neurontin) were administered. Surgical applications included arthroscopic repair/reconstruction, collateral ankle ligament (lateral ligament) and arthroscopic debridement, ankle, extensive (including synovectomy) and/or lysis of adhesions on 03/11/02. Physical therapy applications that included mechanical traction, electrical stimulation, therapeutic exercise, neuromuscular re-edu, manual traction therapy, myofascial release/soft joint mobilization, analysis of information and office visits were applied from 01/18/02 through 07/08/02.

FCE on 06/26/02 revealed functional/psychosocial deficits, with recommendations of a work hardening program for 6-8 weeks.

Disputed Services:

Mechanical traction, electrical stimulation, therapeutic exercise, neuromuscular re-edu, manual traction therapy, myofascial release/soft joint mobilization, analysis of information and office visits.

Decision:

The reviewer disagrees with the determination of the insurance carrier. The reviewer is of the opinion that the services rendered as listed above were medically necessary in this case.

Rationale for Decision:

The provider shows a multi-disciplinary directive that has included surgical applications applied to the right ankle on 03/11/02. The D.O. advised continuation of physical therapy. It is apparent from the medical record that the provider showed an active trend in the therapies applied, with a return-to-work goal.

The mechanism of injury, severity of injury, and necessitated surgical applications demonstrated rationale for the therapeutic applications applied from 01/17/02 through 07/08/02. The FCE on 06/26/02 revealed deficits of function in manual material handling, active range of motion and psychosocial deficits, indicating the patient was not capable of returning to work for full duty. Typical progression for arthroscopic surgical repair over the ankle would include a course of eight weeks of time-limited passive applications with a focus on increasing active, patient-driven therapies. However, this patient's injuries are not typical and are much more encompassing.

The provider enacted appropriate referrals and implemented surgical correction of the lesion in the right ankle with the failure of conservative physical therapy options. The medical record supports the necessity for the applied therapeutics from 01/17/02 through 07/08/02.

Clinical References:

- *Clinical Practice Guidelines for Chronic Non-Malignant Pain Syndrome Patients II: An Evidence-Based Approach.* J. Back Musculoskeletal Rehabil., 1999, Jan 1, 13: 47-58.
- McGibbon, C.A. *Toward a Better Understanding of Gait Changes with Age and Disablement: Neuromuscular Adaptation.* Exerc. Sport Sci. Rev., Vol. 31, No. 2, pp. 102-108, 2003.
- *Overview of Implementation of Outcome Assessment Case Management in the Clinical Practice.* Washington State Chiropractic Association; 2001, 54 p.
- *Unremitting Low Back Pain, North American Spine Society Phase III Clinical Guidelines for Multi-Disciplinary Spine Care Specialists.* North American Spine Society; 2000, 96 p.

I am the Secretary and General Counsel of ___ 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.

Sincerely,