

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-03-3462.M5**

MDR Tracking Number: M5-03-1324-01

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, 2003 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 amount due for the services found medically necessary does not exceed the amount found not medically necessary. Therefore, the Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, in accordance with §133.308(q)(9), the Commission hereby **Declines to Order** the respondent to refund the requestor 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 impairment rating dated 8/16/02 was found to be medically necessary. The office visits, physical therapy and range of motion from 2/18/02 through 8/16/02 were not medically necessary. The respondent raised no other reasons for denying reimbursement.

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 date of service 8/16/02.

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 30th day of April 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

April 21, 2003

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

RE: MDR Tracking #: M5-03-1324-01
 IRO Certificate # IRO 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 patient sustained a work-related injury on ___ when she fractured her left fifth toe. She was diagnosed with a fractured middle phalanx, fifth digit left foot with non-union. On 2/4/02 she underwent excision of the middle phalanx fifth toe of her left foot. Post-operatively, she was under the care of a chiropractor whom she saw from 2/18/02 through 8/16/02 for office visits, physical therapy, and range of motion.

Requested Service(s)

Office visits, physical therapy, and range of motion from 2/18/02 through 8/16/02.

Decision

It is determined that the Impairment Rating dated 8/16/02 was medically necessary to treat the patient's condition. However, it is determined that the office visits, physical therapy, and range of motion from 2/18/02 through 8/16/02 were not medically necessary to treat the patient's condition.

Rationale/Basis for Decision

A course of rehabilitation was not initiated until 5/18/02 and medical record documentation before this date indicates that office visits were for post-operative "check-ups" to assess the patient's condition. There is no evidence of documentation that a pre-rehabilitation assessment was administered, such as a physical performance evaluation or functional capacity assessment, to develop a baseline bank of data to compare with later in the course of rehabilitation to determine medical appropriateness and efficacy of care. This is a standard course of practice within the chiropractic profession. The rehabilitative care proposed is not goal-oriented and the documentation lacks objective information such as range of motion data or muscle testing, to ascertain the effectiveness of the current care as related to this patient and her condition. The frequency of treatment as documentation in the medical record does not represent the standards of care. The care is sporadic and infrequent as opposed to what would be expected in typical post-operative rehabilitation programs.

In addition, the documentation does not adequately describe the types or modalities of rehabilitative care utilized. Most of the modalities that are referred to in the documentation require a time element to be documented. This time element is not satisfied in the documentation as well.

Therefore, the Impairment Rating dated 8/16/02 was medically necessary; however, the office visits, physical therapy, and range of motion from 2/18/02 through 8/16/02 were not medically necessary.

Sincerely,