

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 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(r)(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 treatment/service rendered 7-17-02 to 9-13-02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these charges.

The above Findings and Decision are hereby issued this 8th day of July 2003.

Dee Z. Torres
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 7-17-02 through 9-13-02 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 8th day of July 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution Officer
Medical Review Division
DZT/dzt

NOTICE OF INDEPENDENT REVIEW DECISION

Date: May 5, 2004

RE: MDR Tracking #: M5-03-1606-01
IRO Certificate #: 5242

___ 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 proposed 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 Chiropractic physician. The Chiropractic physician reviewer 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

The claimant is a 42 year old instructor for the ____. He suffered an injury to his right lower extremity while roller skating with students. The claimant was initially seen at the ___ where plain film radiology revealed avulsion fracture of the right distal fibula.

The claimant eventually placed himself under the care of a ____. The claimant is seen at the office of ___ on 07-17-02. He presents with primary complaints of pain, swelling and numbness involving the right foot and ankle. ___ evaluation on 07-17-02 is remarkable for apparent restriction to passive inversion and eversion of the foot and ankle. Strength testing produces pain. Neurological exam is unremarkable. The following impressions are submitted:

1. 727.06 Tenosynovitis bursitis foot and ankle
2. 355.5 Dorsal tunnel syndrome.
3. 959.71 injury to ankle.

The doctor's plan is for this claimant to be referred for an MRI and electroelectrodiagnostics. Treatment will consist of daily sessions for two weeks, followed by four sessions per week for the next six weeks. Treatment will consist of active and passive therapy. Range of motion and strength testing will be performed regularly to assess the patient's progress and determine treatment in the future. According to documentation, therapeutic exercises were implemented on 07-18-02.

The attending submits range of motion testing and static ankle strength testing which reflects increased mobility and increased strength.

On 07-17-02 the claimant also sees a ___ for a medical consultation. ___ arrives at the following impressions:

1. Workers compensation slip and fall
2. Right lower extremity acroparathesia, radiculitis and weakness
3. Right ankle foot sprain/strain.
4. Rule out fracture.

He recommends continued conservative therapy, modalities and treatment. He prescribes for the claimant Vicodin and Celebrex and recommends diagnostic imaging. Lastly, he suggests an orthopedic evaluation.

The claimant undergoes an MRI of the right ankle and foot on 07-31-02. In the right ankle there is noted:

1. Anterior talofibular ligament is not well visualized most likely reflecting changes secondary to chronic tear.
2. Small boney fragment adjacent to the inferior aspect of the lateral malleolus. May reflect chronic avulsion injury.

In regards to the right foot there is no evidence of stress fracture. There are noted degenerative cysts with mild joint space narrowing and small joint effusions around the calcaneocuneiform and second and fourth metatarsal joints. These findings most likely reflect osteoarthritic changes, however, the possibility of early inflammatory arthritides can not be excluded. Clinical correlation is recommended.

On 08-12-02, the claimant undergoes an evaluation with a _____. On clinical exam _____ notes "exquisite tenderness and swelling over the anterior fibulotalar ligament." There is noted no nerve or vascular compromise. There is normal range of motion, but pain at the extremes of motion. Tenderness is noted over the MP Joints on the plantar surface especially the 2nd, 3rd, and 4th digits. His impressions are:

1. Tear of the anterior fibular taller ligament with synovitis.
2. Metatarsalgia

He recommends for the claimant injections for pain, however he declines the same. The claimant is therefore given a Medrol Dosepak and a prescription for a metatarsal pad and bar. He recommends a four week follow up.

The claimant sees _____ in follow up on 08-16-02, approximately four weeks post presentation. His pain remains at a 6/10 on the visual analog scale. The attending's findings are essentially unchanged, as is his treatment plan. Treatment continues to include therapeutic exercises. Physical medicine techniques include myofascial release, joint mobilization and manual traction. On 09-03-02 the claimant undergoes repeat range of motion testing. Range of motion is within normal limits, with the exception of inversion which is reduced by 3%. The claimant is seen on 09-13-02 in follow up. Reportedly his pain remains at a 6/10 on the visual analog scale. He complains of reduced range of motion and swelling. Numbness continues to be reported. The attending's plan for care is identical to the previous notes. Treatment on this date apparently consists of therapeutic exercises, joint mobilization and manual traction.

On 10-22-03 the claimant undergoes a designated doctor evaluation with a _____. We learn from _____ documentation that the claimant was placed in an orthotic boot and crutches in the _____. _____ comments "examinee has been treated in a satisfactory manner with an ankle sprain giving support, medication, application of ice to the area, home exercises, strengthening and non addictive non inflammatory medication." _____ feels the claimant has reached maximum medical improvement as of 10-22-02. His impression is that of a "719.47 right ankle" (arthralgia). _____ evaluation reveals no residual range of motion loss and no neurological deficit. He awards a 0% whole person impairment for the claimant's ankle injury.

On 02-20-03 _____ submits an apparent letter of medical necessity which disputes the designated doctor's impairment assessment. In summary, _____ felt that _____ evaluation was inadequate.

No other documentation was available.

Requested Service(s)

Chiropractic treatments and services

Decision

I must disagree with the carrier in that the services rendered from 07-17-02 through 09-13-02 were medically necessary and reasonable.

Rationale/Basis for Decision

A mechanism of injury is documented. An injury is documented to have been sustained. Based upon the medical presented, the claimant had no conservative care prior to his presentation to ___ office. The right foot and ankle were immobilized and he was apparently advised to remain non-weight bearing. The medical reflects no care in the interim, from the date of loss to the claimant's presentation to the chiropractor. It appears that the claimant exercised his right to choose his attending physician. Therefore, the chiropractor performed his initial evaluation and entered into a course of care. Given these points it is medically reasonable to enter into a trial of conservative physical medicine. As per TWCC guidelines, the claimant is entitled to a trial of care that "cures or relieves the effects naturally resulting from the compensable injury.... Promotes recovery.... Enhances the ability of the employee to return to or retain employment."

When considering all the documentation submitted, the services in question appear reasonable and necessary.