

MDR Tracking Number: M5-03-1694-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 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. This dispute was received on 3-10-03.

Dates of service 3-7-02 and 3-8-02 were submitted untimely per Rule 133.307(d)(1), and will not be considered in this decision.

The IRO reviewed physical therapy, team conferences by physician and office visits rendered from 3-25-02 to 5-29-02 that were denied based upon "V".

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 \$650.00** 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.

This Decision is hereby issued this 15th day of September 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 3-25-02 through 5-29-02 in this dispute.

This Order is hereby issued this 15th day of September 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

May 9, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #:
IRO #:

M5-03-1694-01
5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified and specialized in Physical Medicine and Rehabilitation. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___ is a 45-year-old gentleman who sustained an injury to his right elbow on ___. The medical record states that his injury occurred when he was backing up a vehicle close to an airplane. His foot slipped on the gas pedal, the steering wheel spun, he grabbed the steering wheel, jerked his arm from extension into flexion and had immediate posterior elbow pain.

Past history is significant, in that this patient sustained an injury to the same elbow and had surgery on it in September of 2000. A right elbow MRI documented cubchondral cyst formation at the tip of the olecranon and joint fusion was present. ___ had therapy and was responding to therapy. Office notes indicated that there were two intraarticular loose bodies measuring 3 mm in the ulnar femoral joint space. Risks and benefits were discussed of arthroscopic surgery. The decision was to continue with conservative treatment for as long as there was improvement. When therapy was effective but did not completely eliminate the symptoms, further therapy was ordered. A peer review by ___ stated that the additional therapy from 3/25/02 to 5/29/02 was not needed and the carrier refuses to cover the services rendered. The treating doctor has appealed the denial of coverage.

DISPUTED SERVICES

Under dispute are therapeutic procedures, physical medicine treatment, ultrasound therapy, massage therapy, range of motion, team conference by physician and office visits.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

___ had a prior injury to the same elbow that required surgery. In cases where there has been prior injury and prior surgery, the standard guidelines are not always applicable and the therapies are often extended beyond the normal therapeutic guidelines. This patient did respond to the therapies and continued to improve with additional therapy. The reviewer finds that the clinical improvement in resolution of the persistent pain is indication that the treatment was indeed medically necessary in this case.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,