

MDR Tracking Number: M5-03-2277-01

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 titled Medical Dispute Resolution- General 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 05-12-03.

The IRO reviewed office visits and physical medicine rendered from 07-29-02 through 01-31-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for office visit and physical medicine from 07-29-02 through 08-23-02 and 10-24-02 through 01-31-03. Consequently, the requestor is not owed a refund of the paid IRO fee.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity for office visits and physical medicine for dates of service 09-05-02 through 10-14-02. 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 not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On December 30, 2003 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
07-18-03	97750FC	\$200.00	0.00	F	\$	MFG MRG (I)(E)(2)	In accordance with MFG MRG (I)(E)(2) a maximum of three Functional capacity evaluations are allowed therefore, no reimbursement is recommended
TOTAL		\$200.00					The requestor is not entitled to reimbursement

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 09-05-02 through 10-14-02 in this dispute.

This Decision is hereby issued this 22nd day of January 2004.

Georgina Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Amended Letter
Note: Decision

July 29, 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 #: M5-03-2277-01
IRO Certificate #: IRO4326

___ 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. ___'s 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 left ankle injury on ___. Diagnostic testing revealed tarsal tunnel syndrome. He subsequently had a tarsal tunnel release and arthrocentesis sinustarsi on 02/14/02. The patient then underwent a course of post operative rehabilitation and work hardening. The patient continued to complain of pain and swelling. A post operative MRI showed edema with possible talofibular ligament rupture. Another arthroscopic surgery was performed on 08/27/02.

Requested Service(s)

Physical medicine procedures and office visits medically necessary to treat this patient for the following dates: 07/18/02 (except the functional capacity evaluation/physical performance evaluation), 07/29/02, 08/06/02, 08/13/02, 08/23/02, 09/05/02, 09/20/02, 09/23/02, 09/30/02, 10/10/02, 10/14/02, 10/24/02,

11/08/02, 11/13/02, 11/20/02, 11/25/02, 12/04/02, 12/18/02, 12/24/02, 01/06/03, 01/08/03, 01/16/03, 01/22/03, and 01/31/03

Decision

It is determined that the physical medicine procedures and office visits medically necessary to treat this patient from 09/05/02 through 10/14/02 were medically necessary to treat this patient's condition. However, all other dates in question, 07/18/02 (excluding the functional capacity evaluation/physical performance evaluation), 07/29/02, 08/06/02, 08/13/02, 08/23/02, 10/24/02, 11/08/02, 11/13/02, 11/20/02, 11/25/02, 12/04/02, 12/18/02, 12/24/02, 01/06/03, 01/08/03, 01/16/03, 01/22/03, and 01/31/03 were not medically necessary.

Rationale/Basis for Decision

This patient underwent an exhaustive course of chiropractic and physical medicine care during the early days of his injury. The frequency and duration was three times per week for approximately 13 weeks. Eventually, the treating provider administered physical performance evaluations (PPE), the most noteworthy being on 06/07/02, 07/05/02, and 07/18/02. Over the course of these six weeks of care and associated PPE's, it is evident that the patient was not satisfactorily responding to the present course of care at that time. The care should have been terminated or modified to a more efficacious one. Lifting test values from 06/07/02 to 07/18/02 actually decreased in most instances throughout this time period. Moreover, some of the lifting elements of these evaluations were recorded with high co-efficients of variation indicating the possibility of sub-maximal effort. Although it is well established that high co-efficients of variation are associated with sub-maximal effort, it is also noted that these high co-efficients of variation can occur for a variety of reasons. However, it should have been addressed at that time why the course of therapy was not efficacious. Consequently, a second surgery was performed on 09/03/02 and rehabilitation was begun shortly thereafter. As the post operative rehabilitation was begun, it is not clear that the baseline of objective data was procured to be able to objectively measure the patient's progress through the course of post-surgical rehabilitation. However, it is certainly within generally accepted standards that the patient would undergo a course of post operative rehabilitation. Also, it is well established that multiple surgeries tend to have a cumulative effect on both the patient's physical performance and length of time necessary to rehabilitate the injury. However, on 10/24/02, the patient was examined with a hands-on required medical exam and it was opined that no additional physical therapy would be appropriate or medically necessary. This would represent six weeks of post operative rehabilitation which is sufficient by most standards. The documentation substantiates this as the PPE's and functional capacity evaluations done after this point show no improvement and even some regression after 10/14/02. Therefore, it is determined that the physical medicine procedures and office visits medically necessary to treat this patient from 09/05/02 through 10/14/02 were medically necessary. However, all other dates in question, 07/18/02 (excluding the functional capacity evaluation/physical performance evaluation), 07/29/02, 08/06/02, 08/13/02, 08/23/02, 10/24/02, 11/08/02, 11/13/02, 11/20/02, 11/25/02, 12/04/02, 12/18/02, 12/24/02, 01/06/03, 01/08/03, 01/16/03, 01/22/03, and 01/31/03 were not medically necessary.

Sincerely,