

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

**SOAH DOCKET NO. 453-04-5856.M5**

MDR Tracking Number: M5-03-2308-01

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, 133.307 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 05-13-03.

The IRO reviewed physical medicine services, office visits, range of motion measurements and supplies/materials rendered from 05-13-02 through 08-09-02 that was denied based upon "U".

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 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 08-21-03, 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	Reference	Rationale
6-27-02	99080-73	\$15.00 (1 unit)	\$0.00	U	DOP	Rule 133.307 (g)(3)(A-F)	Carrier denied as U; however this is a TWCC required report. Requestor submitted relevant information to support delivery of service. Reimbursement is recommended in the amount of \$15.00
7-30-02	97750-MT	\$172.00 (4 units billed)	\$43.00	F	\$43.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$43.00 X 3 = \$129.00

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
8-14-02	97750-MT	\$172.00 (4 units)	\$43.00	P,424	\$43.00	96 MFG GR I (E)(3)	P,424 – IC requesting refund per denial code; however does not clearly identify refund amount. IC is not compliant with Rule 133.304(o)(2). Explanation of benefits does not reflect payment of services. Requestor indicates payment received for 1 unit. Requestor submitted relevant information to support delivery of 3 additional units. Additional reimbursement recommended in amount of \$43.00 X 3 = \$129.00
8-16-02	97750-MT	\$129.00 (3 units)	\$43.00	P,424	\$43.00	96 MFG GR I (E)(3)	P,424 –IC requesting refund per denial code; however does not clearly identify refund amount. IC is not compliant with Rule 133.304(o)(2). Explanation of benefits does not reflect payment of services. Requestor indicates payment received for 1 unit. Requestor submitted relevant information to support delivery of 2 additional units. Additional reimbursement recommended in amount of \$43.00 X 2 = \$86.00
8-16-02	95851	\$40.00	\$0.00	F	\$36.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement is

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
							recommended in the amount of \$36.00
TOTAL		\$528.00	\$86.00		\$524.00		The requestor is entitled to reimbursement in the amount of \$395.00

This Decision is hereby issued this 26th day of April 2004.

Debra L. Hewitt  
 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 05-13-02 through 08-16-02 in this dispute.

This Order is hereby issued this 26th day of April 2004.

Roy Lewis, Supervisor  
 Medical Dispute Resolution  
 Medical Review Division

RL/dlh

March 11, 2004

Rosalinda Lopez  
 Texas Workers' Compensation Commission  
 Medical Dispute Resolution  
 Fax: (512) 804-4868

**REVISED REPORT**  
**Corrected dates and services in dispute.**

Re: Medical Dispute Resolution  
 MDR #: M5-03-2308-01  
 TWCC#:  
 Injured Employee:  
 DOI:  
 SS#:  
 IRO Certificate No.: IRO 5055

Dear Ms. Lopez:

\_\_\_ 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 male claimant was injured in a work-related accident on \_\_\_, after which he was placed in a hard cast. He remained in cast for six weeks and was then referred to physical therapy for one month. His physical therapy resulted in no improvement and he saw a physician who gave him a cortisone injection in his ankle. He returned to physical therapy and followed up in one month.

On his follow up visit, he was given another cortisone injection and referred back to physical therapy. Upon completion of physical therapy, the patient's ankle was injected again, but resulted in no improvement. Following this the physician withdrew as the treating doctor, as did one other of this patient's treating doctors.

The patient then began chiropractic treatment. He had little to no relief of his condition and was unable to return to work as of 06/10/02. His pain was 9 out of 10. Therefore, an NCV/EMG and bone scan were ordered. On 07/11/02 it was concluded that the patient was not at MMI. On 07/22/02 the treating doctor stated the patient needed additional rehabilitation. The patient was referred to gait training and a weight-bearing regimen, and electrodiagnostic studies, NCV, and bone scan were ordered. It was determined that the patient would need approximately four weeks to come close to MMI.

On 08/18/02, after ten passive and active sessions of chiropractic and physiotherapy treatments, the patient had documented an increase in strength levels, range of motion, and a decrease in pain levels. He was able to return to work in early October with restrictions.

**Disputed Services:**

Physical medicine services, office visits, range of motion measurements, and supplies/materials for dates 05/13, 05/15, 05/20, 05/22, 05/28, 05/31, 06/05, 06/07, 06/14, 06/17, 06/19, 06/27, 07/08, 07/12, 07/17, 07/19, 07/30, 08/07, and 08/09 of 2002.

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatment and office visits in question were medically necessary in this case.

**Rationale:**

The records provided for review document that proper referrals, consultation and treatment plans were utilized in the effort to return this patient to work and help him reach MMI.

According to Texas Labor Code 408:021(a), an employee is entitled to the care reasonably required in association with their injury and the treatment thereof. If the patient's condition is not stable, the care to maintain and promote healing is medically necessary.

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,