

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 did not prevail** on the issues of medical necessity. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 office visits on 12-4-02, 1-3-03, and 2-5-03 and two units only of therapeutic exercises on 3-11-03, 3-12-03, 3-13-03, and 3-17-03 were found to be medically necessary. The office visits on 12-11-02, 12-27-02, 1-8-03, 1-15-03, 1-22-03, 1-29-03, 3-11-03, 3-12-03, 3-13-03, 3-17-03, and 4-3-03 and the therapeutic exercises on 3-12-03 and 4-3-03 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these services charges.

The requestor submitted an updated table on 7-30-03 indicating that the insurance carrier has paid the special reports on 10-14-02 and 11-27-02; and the office visits and therapeutic exercises on 2-18-03 through 3-10-03, 3-18-02 through 4-2-03, and 4-7-03 through 4-8-03; and the ROM testing and physical performance tests on 3-6-03, 3-10-03, 3-24-03, 4-1-03, 4-7-03, and 4-8-03.

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 12-4-02 through 4-3-03 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 25th day of August 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

NOTICE OF INDEPENDENT REVIEW DECISION - AMEND

Date: August 21, 2003

RE: MDR Tracking #: M5-03-2683-01
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 reviewer. 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

According to the documentation supplied, the claimant fell off a scaffold on ___ and fractured his distal tibia. The claimant had surgery performed by ___ on 06/09/2001. The patient continued care under ___ and after 6-weeks was referred for physical therapy. The claimant went back to work on 12/03/2001 light duty and eventually full duty. On 08/01/2002, the claimant decided to change treating doctors to ___. ___ recommended that the claimant begin a work hardening program. The claimant underwent extensive chiropractic care over the next several months. The claimant was referred to ___ who eventually performed more surgery on the claimant. The claimant continued chiropractic care and rehabilitation well into 2003. The documentation ends here.

Requested Service(s)

Please review and address the medical necessity of the outpatient services including therapeutic exercises, office visits, range of motion and physical performance test rendered between 12/04/2002 – 04/08/2003

Decision

The office visits dated 12/04/2002; 01/03/2003, 02/05/2003, 03/05/2003 and 04/07/2003 were medically necessary. I also feel that 2 units of 97110 per day were medically necessary on the following days: 02/18/2003, 02/21/2003, 02/27/2003, 02/28/2003, 03/01/2003, 03/03/2003, 03/05/2003, 03/06/2003, 03/10/2003, 03/11/2003, 03/13/2003 and on 03/17/2003. I agree with the insurance company that the remainder of the care rendered was not medically necessary.

Rationale/Basis for Decision

During the dates in question, the claimant had already received a plethora of care from several providers. The claimant had a significant amount of passive and active care. The frequent office visits billed were not objectively documented enough to justify the number of visits. ___ performed surgery on the claimant and prescribed additional therapy after the claimant was released for additional care. This would justify an additional 12 visits over the following 4 weeks. Since the claimant had received so much prior passive and active modalities, it would not be reasonable to utilize more than 2 units per day. Any additional care needed beyond this should have been done at home. The claimant should have been instructed on a home-based exercise protocol that would continue to improve his range of motion and decrease his pain. Monthly office visits would be necessary to continue to monitor the claimant and refer as needed.