

MDR Tracking Number: M5-03-2926-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on July 14, 2003.

No EOB was submitted by either party documenting a rationale for denial for CPT code 97546-WH (date of service-3/14/03). Therefore date of service 3/14/03-CPT code 97546-WH was considered a fee issue. Correspondence submitted by ____, dated 11/3/03 revealed that ____ desires to **withdrawal** all of the fee issues. At the request of ____ the fee issues are withdrawn and a findings and decision will be issued addressing the medical necessity issues.

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 physical therapy, office visits, functional capacity evaluation, work hardening, and special reports were found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the physical therapy, office visits, functional capacity evaluation, work hardening, and special reports charges.

This Findings and Decision is hereby issued this 5th day of November 2003.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

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 1/20/03 through 4/1/03 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 5th day of November 2003.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

September 4, 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 # M5-03-2926-01
 IRO Certificate # IRO 4326

___ 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. ___ 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 an injury on ___ while working on a pipe on a construction site. The pipe burst and a piece hit the back of his right lower leg causing a fracture of the medial malleolus of the tibia. After a semi-cast was applied, he saw a chiropractor for treatment and physical therapy. He underwent an open reduction and internal fixation (ORIF) on 08/29/02 followed by physical therapy. The patient later began a work hardening program.

Requested Service(s)

Physical therapy, office visits, functional capacity evaluation, work hardening, and special report from 01/20/03 through 04/01/03

Decision

It is determined that the physical therapy, office visits, functional capacity evaluation, work hardening, and special report from 01/20/03 through 04/01/03 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient's mechanism of injury implies that the region affected is not confined to only a fracture of the right malleolus, but is afflicting the entire right lower quarter.

Any rehabilitation program that does not treat the right lower quarter as a functional unit that has been altered due to injury is not providing the most appropriate medical service. The medical record forwarded shows that the patient was transitioned to a return-to-work (RTW) program like work hardening after sufficient qualification in the functional capacity evaluation (FCE) and psychosocial testing that was performed on/about 01/22/03. It was apparent that this patient had true deficits of function and it was absolutely appropriate for work hardening applications to commence and run the entirety.

The patient's anxiety of performing weight-bearing activities should have been taken into account. The foot/ankle plays a tremendous role in the activation of the entire locomotor chain. A symphony of musculature activation takes place in each step that must be effectively and functionally rehabilitated so that alterations are not seen through the rest of the locomotor chain.

Failure to rehabilitate the patient in this fashion can result in an increased likelihood of further injury and/or re-injury to the entire locomotor chain. It is apparent from the reviewed medical record that the treating provider was attempting to implement this phase of the patient's treatment from 01/20/03 through 04/01/03. Therefore, it is determined that the physical therapy, office visits, functional capacity evaluation, work hardening, and special report from 01/20/03 through 04/01/03 were medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- *Clinical practice guidelines for chronic, non-malignant pain syndrome patients II: An evidence-based approach.* J Back Musculoskeletal Rehabil 1999 Jan 1; 13; 47-58.
- Kunkel M, Miller, SD *Return to work after foot and ankle injury.* Foot Ankle Clin. 2002 Jun;7(2):421-8,viii.
- Lechner DE. *The role of functional capacity evaluation in management of foot and ankle dysfunction.* Foot Ankle Clin. 2002 Jun;7(2):449-76.

Sincerely,