

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, 2002 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 prevailed** on the issues of medical necessity for the office visits, reports, FCEs and work conditioning. The **requestor did not prevail** on the medical necessity of physical therapy, range of motion and muscle testing. The total amount of the fees for the services found medically necessary are more than the sum of the fees not found medically necessary. 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 \$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 office visits, reports, FCEs and work conditioning were found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Order is hereby issued this 8th day of November 2002.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

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 7/13/01 through 1/25/02 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 8th day of November 2002.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

October 18, 2002

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

MDR Tracking #: M5 02 2842 01
IRO #: 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.

This case was reviewed by a licensed Doctor of Chiropractic. 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

The documentation reports that the patient sustained a crushing injury to the left lower extremity. This resulted in a "severely comminuted fracture to the left tibia and fibula." He underwent surgery on 10-5-2000 (Open Reduction Internal Fixation) then had complications due to diabetes. A lengthy rehabilitation period ensued afterward. The patient underwent a RME on 8-1-2001 by Wright Singleton, MD in which the patient received a MMI of 8-1-01 and an impairment of f21%. He had three post-operative FCE's (9-26-2001, 10-17-2001, and 11-6-2001) with very little results. At no time did he reach his required PDL of heavy. In fact, he did not move from his PDL of light. This was about 6 weeks after surgery. Care continued up through 1-25-2002 by the records available for review.

DISPUTED SERVICES

Office visits, physical therapy (passive and active), range of motion, muscle testing, reports, FCE's, and work conditioning.

DECISION

The reviewer has a split decision regarding this case. The reviewer agrees with the prior adverse determination with regard to passive treatment (including muscle stimulation, massage, mobilization, hot/cold packs) as well as ROM and muscle testing. The reviewer disagrees with the prior adverse determination for all other treatment disputed.

BASIS FOR THE DECISION

Unfortunately the documentation of the office visits offers little to substantiate the medical necessity due to a canned format. In this particular case the FCE's offer more supportive evidence. While the patient never seemed to progress from his light PDL category to his required heavy PDL he did make some steady improvement over a six week period. Therefore with this in mind, this supports the medical necessity of continued active rehabilitative care. This will include active PT and work conditioning, which may also include period ROM and muscle testing. However, ROM and muscle testing are normally included within the FCE's performed at the beginning, middle and end of the therapy duration. They would not be expected to have separate billing.

I find no justification for continued use of passive modalities this far post injury and they may even be counter productive. The long-term use of most passive modalities is unsupported within the literature and is therefore of little clinical utility. Passive is defined as anything that is done to the patient without the patient's participation (e.g. EMS, massage, mobilization, hot/cold packs, etc.) This case was obviously complicated and fell outside most normal cases with similar diagnoses. Contrary to ___ report, this patient did not require amputation and the continued PT has benefited him.

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,