

MDR Tracking Number: M5-02-3101-01

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 IRO determined that part of disputed services were medically necessary. The amount reimbursable to the requestor for the medically necessary services exceeds the amount due for those services not medically necessary. Therefore, 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(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 chiropractic services provided through 10/10/01 were medically necessary. The services provided after 10/10/01 were not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Decision is hereby issued this 15th day of January 2003.

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 8/13/01 through 10/10/01.

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 15th day of January 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

L/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

December 17, 2002

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

RE: MDR Tracking #: M5-02-3101-01
IRO Certificate #: 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 29 year old male sustained a work-related injury on ___ when he was unloading an 18 wheeler and dropped a box on his right foot. The patient was evaluated and diagnosed with a contusion of the right foot. X-rays of the right foot were normal. An MRI of the right foot was unremarkable and nerve conduction studies were negative. The patient continued to complain of right foot pain and from 07/17/01 through 02/11/02 he was under the care of a chiropractor.

Requested Service(s)

Physical therapy, office visits, evaluations, and work conditioning provided from 08/13/01 through 02/11/02.

Decision

It is determined that all of the chiropractic services provided through 10/10/01 were medically necessary to treat this patient's condition. However, the services provided after 10/10/01 were not medically necessary.

Rationale/Basis for Decision

The patient began treatment with the chiropractor on 07/17/01 and he began a course of chiropractic treatment and was treated on the following dates based on the medical record documentation.

Jul 01: 17, 18, 19, 20, 23, 24, 25, 27
Aug 01: 6, 13, 15, 17, 20, 22, 24, 27, 29, 31
Sep 01: 4, 5, 07, 10, 12, 14, 17, 24, 26, 28
Oct 01: 3, 5, 8, 10, 17, 23, 24, 29, 31
Nov 01: 2, 5, 9, 12, 14, 19, 21, 23, 26, 28, 30
Dec 01: 3, 5, 6, 10, 12, 14, 17, 19, 21, 26, 28
Jan 02: 9, 11, 14, 16, 23, 28
Feb 02: 4, 5, 11

Radiographs of the foot were interpreted as normal by a medical radiologist on 08/22/01. The patient underwent MRI evaluation of the foot on 08/28/01 and the study was essentially unremarkable. The patient was referred to an orthopedist on 08/30/01 and he was instructed to walk without crutches as soon as possible and he was prescribed Celebrex.

The patient underwent a functional capacity evaluation (FCE) with the chiropractor on 09/27/01 and was found to be functioning at a sedentary physical demand level and his job required the heavy physical demand capacity. A review of the FCE results revealed that the static strength testing forming the basis of the opinion was invalid due to excessively high coefficients of variation on 8 of the 9 tests for which coefficients of variation were established.

The patient's 12/06/01 functional capacity evaluation revealed he was functioning at the heavy physical demand level, which was required of his job. The treatment plan recommended more physical therapy consisting of electrical stimulation, corrective spinal exercises, and physical therapy exercises three times per week for four weeks.

A review of the progress notes revealed that treatments from 08/13/01 through 02/11/02 consisted of the following:

- Myofascial release, ultrasound, hot packs, and electrical stimulation from 08/13/01 – 08/29/01;
- Myofascial release, joint mobilization, hot packs, and electrical stimulation on 08/31/01;
- Myofascial release, diathermy, electrical stimulation, and joint mobilization from 09/04/01 through 09/10/01;
- Office visit and joint mobilization from 09/12/01 through 12/28/01 and from 01/09/01 through 02/11/01; and
- Work conditioning from 12/31/01 through 01/04/02.

The treatment plan implemented by the chiropractor was essentially passive in nature for the entire course of the patient's care and the patient was unresponsive to the measures utilized in his treatment from the beginning of September 2001 through February 11, 2002. The records reviewed indicated that joint mobilization was added to the treatment as of 09/04/01 and was continued through February 2002. As no manual procedures were noted prior to 09/04/01, the addition of joint mobilization to the patient's care represented a change in the type of care rendered. However, the lack of appreciable benefit with the addition of joint mobilization indicated that treatments after 10/01/01 were not medically necessary. No change in the patient's self-reported pain level was noted from the beginning of September 2001 through February 2002. The range of motion assessments were essentially unchanged as the result of the care rendered.

The work conditioning program was initiated on 12/31/01 and continued to 01/04/02. The work conditioning program was not medically necessary as the patient was already functioning at his required job capacity in early December 2001 and the strength increased noted were not due to the protracted use of joint mobilization of the ankle and foot.

Haldeman et al indicated that an adequate trial of care is defined as a course of two weeks each of different types of manual procedures (4 weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated, "Haldeman, S., Chapman-Smith, D., and Petersen, D. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993.

This patient has had a protracted course of care in excess of the parameters delineated by the above-mentioned document and has not demonstrated a favorable response to treatment. Therefore, the services provided through 10/10/01 were medically necessary while the services provided after 10/10/01 were not medically necessary.

Sincerely,