M5-03-2324-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June17, 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 05-14-03. Per Rule 133.308(e)(1) date of service 05-13-02 was not timely filed.

The IRO reviewed aquatic therapy, therapeutic exercises, neuromuscular re-education, myofascial release and group therapeutic procedures rendered from 05-14-02 through 05-24-02 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 08-20-03, 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
5-14-02 to 5-20-02 (3 DOS)	97112	$35.00 (1 unit X 3 DOS)	$0.00	D, No EOB	$35.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement is recommended in the amount of $105.00 ($35.00 X 3 DOS)
5-17-02 through 5-20-02 (2 DOS)	97250	$43.00 (1 unit X 2 DOS)	$0.00	D, No EOB	$43.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement is recommended in the amount of $86.00 ($43.00 X 2 DOS)
5-17-02 through 5-20-02	97150	$27.00 (1 unit X 2	$0.00	D, No EOB	$27.00	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
(2 DOS)		DOS)					recommended in the amount of $54.00 ($27.00 X 2 DOS)
TOTAL		$245.00	$0.00		$245.00		The requestor is entitled to reimbursement in the amount of $245.00

This Decision is hereby issued this 15th day March 2004.

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 05-24-02 in this dispute.

This Order is hereby issued this 15th day of March 2004.

Medical Dispute Resolution
Medical Review Division

Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION

August 14, 2003

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

RE: Injured Worker: ___
MDR Tracking #: M5-03-2324-01
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF 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. TMF's 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 TMF 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 a lumbar compression fracture, right distal radius fracture, right calcaneus fracture, and left calcaneus fracture from falling down a staircase on . The patient was allowed to start physical therapy on 02/18/02 after being in casts and splints for a number of months. At first, he was only allowed aquatic therapy to his ankles due to the severity of the crushing injuries.

Requested Service(s)

Aquatic therapy, therapeutic exercises, neuromuscular re-education, myofascial release, and group therapeutic procedure from 05/14/02 through 05/24/02

Decision

It is determined that the aquatic therapy, therapeutic exercises, neuromuscular re-education, myofascial release, and group therapeutic procedure from 05/14/02 through 05/24/02 was medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The patient was under the direction of an orthopedic surgeon for the course of all applied therapeutics which shows a direct relationship with regard to medical necessity. Transition into a return-to-work (RTW) program like work hardening is only appropriate if the patient has been adequately acclimated to active, patient-driven therapeutics. It is completely probable and sufficiently plausible that the patient was not at a functional level on 04/11/02 that would have allowed successful transition to a work hardening program and for that reason the patient continued along an earlier chosen course of therapeutics.

The presented medical record shows no sufficient clarification for the carrier's position that the applied therapeutics from 05/14/02 through 05/24/02 were not medically necessary to treat the patient's medical condition. It is clear that the patient sustained a myriad of severe injuries that delayed aggressive therapeutic progress. The record shows that the provider has established rehabilitation goals for the patient; transition to return to work therapeutics will be initiated upon successfully acclimating the patient to aggressive active therapeutics.

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.
- Konlian C. *Aquatic therapy: making a wave in the treatment of low back injuries.* Orthop Nurs 1999 Jan-Feb;18(1):11-8;quiz 19-20.

- *Unremitting low back pain. In: North American Spine Society phase III clinical guidelines for multidisciplinary spine care specialists.* North American Spine Society (NASS); 2000. 96p.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment