

MDR Tracking Number: M5-04-0373-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 10-2-03.

The IRO reviewed office visits, therapeutic procedures (therapeutic exercises and activities, neuromuscular re-education, aquatic therapy, gait training, and massage), application modalities (unattended electrical stimulation, manual electrical stimulation, ultrasound), joint mobilization, and special reports from 11-26-02 through 2-14-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO concluded that a maximum of five office visits, therapeutic exercises and activities, neuromuscular re-education, aquatic therapy, and gait training were medically necessary. The IRO agreed with the previous determination that massage, ultrasound, manual electrical stimulation, unattended electrical stimulation, and joint mobilization were not medically necessary. 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12-10-03, 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.

On 2-26-04, the requestor submitted a withdrawal letter for DOS 2-17-03 to 3-21-03.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
1-28-03	99099	\$108.00	\$0.00	No EOB	NA	NA	This code is not in the 1996 MFG; therefore, no review can be made.
TOTAL		\$108.00					The requestor is not entitled to reimbursement.

The above Findings and Decision are hereby issued this 5th day of March 2004.

Dee Z. Torres
 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 Order is applicable for dates of service 11-26-02 through 2-14-03 in this dispute.

This Order is hereby issued this 5th day of March 2004.

Roy Lewis, Supervisor
 Medical Dispute Resolution
 Medical Review Division

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 3/3/04

MDR Tracking Number: M5-04-0373-01

IRO Cert. Number: 5259

November 26, 2003

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

___, a 41-year-old male, sustained an on the job injury while working as a pipe fitter for ___. He sustained a crush injury to his right foot when it got caught under a backhoe's plate, resulting in a degloving injury with open fractures of the cuboid and calcaneus plus neuropraxia to the posterior tibial nerve. This resulted in multiple reconstructive surgeries including osseous fixation and soft tissue / muscle grafts. He was followed by ___ orthopedist and ___, Plastic Surgeon. He subsequently underwent a three-month course of

extensive physical therapy. He underwent a functional capacity evaluation of 8/21/02, which found him to be functioning at a light physical demand level with walking and standing limitations. His pain level with reported as 4/10 and that time. Recommendation was for four weeks of work conditioning prior to an anticipated surgery to address excessive skin formation. It was at this time that he changed treating providers to _____. He instituted a conservative care program consisting of multiple physiotherapeutic modalities with some exercises. The patient returned back to his plastic surgeon on 11/1/02 and had surgery to address some bulging of the transplanted tissue flap, as well as to excise some scar tissue to on right heel and advance the flap to provide some padding to the heel. He apparently was non weight bearing and had a short cast for a few weeks following this procedure. He was then progressed to weight bearing activities which included subsequent multiple physiotherapeutic interventions, progressing to work hardening then chronic pain management.

Various procedures prior to the institution of the chronic pain management program have been denied based on medical necessity. Specifically these include office/outpatient visits, therapeutic procedures, application modalities, joint mobilization, special reports.

REQUESTED SERVICE(S)

Office/outpatient, therapeutic procedures, application modalities, joint mobilization, special reports, for dates of service 11/26/02 through 2/14/03.

DECISION

In answer to the question of medical necessity, there is evidence of medical necessity established for only some of the services rendered. There is no documentation supporting either the requirement or the service level for an expanded (99213) evaluation and management service on each patient encounter through his therapy program. There is only necessity for I office visit (99213) every two weeks (maximum of 5 X 99213).

There is no establishment for the requirement of "joint mobilization", massage, electrical muscle stimulation or ultrasound in conjunction with the other therapeutic procedures employed after 12/20/03.

There is establishment of medical necessity for all other procedures.

RATIONALE/BASIS FOR DECISION

The patient has undergone an extended and complex treatment course for some obviously serious injuries. The time frame for the denials of care occur in a post surgical window, whereby tissue was stretched to enable an improved functional situation. A six-week post surgical course of passive therapeutic modalities in combination with mobilization seems appropriate, up until 12/20/03. This then progressed to a more active intervention in order to apparently improve weight-bearing ability, flexibility and strength, which is again appropriate, with inclusion of gait training, balance training and therapeutic activities. The patient then progressed to a work hardening environment. There would be no requirement for any additional passive therapies in conjunction with the exercises.

Concerning the office visits, the patient was on a relatively regimented post-surgical rehabilitation program, which appeared to be progressing on a more or less undeviating course. There is no evidence of necessity for an expanded level of evaluation and management service on each occasion. The documentation does not support such level of service on each encounter date. Considering that this is a more complex case to manage only one office visit of this level every two weeks is approved.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.