

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 September 18, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity for trigger point therapy, office visits, Myofascial release, therapeutic procedures, joint mobilization, lidocaine injection, medicated gauze pad, syringe, betamethasone, noninvasive ear pulse oximetry, modality (97010), wrist cock up non- molded, surgical trays, and supplies. 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 \$650.00** 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. Trigger point therapy, office visits, Myofascial release, therapeutic procedures, joint mobilization, lidocaine injection, medicated gauze pad, syringe, betamethasone, noninvasive ear pulse oximetry, modality (97010), wrist cock up non- molded, surgical trays, and supplies were found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Findings and Decision is hereby issued this 3rd day of December 2003.

Georgina Rodriguez
Medical Dispute Resolution Officer
Medical Review Division
GR/gr

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 12/10/02 through 03/10/03 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 3rd day of December 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/gr

December 1, 2003, Amended December 2, 2003

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

MDR Tracking #: M5-04-0385-01
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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified and specialized in Physical Medicine and Rehabilitation. The reviewer is on the TWCC Approved Doctor List (ADL). 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

___ is a 42-year-old woman who developed shoulder pain with numbness and swelling in the hands while performing her job on ___. Her job involves a lot of lifting, slicing, cutting, chopping and preparing vegetables. She was placed on light duty by ___ at ___. X-rays were taken and physical therapy was started.

___ placed her at MMI on 2/11/02, with Zero impairment. The patient states that after returning to full duty, the pain became aggravated. On 3/25/02 she returned to ___ who provided therapy and placed her on light duty with work limitations. She was released from ___ care on 3/28/02.

On 5/28/02 she returned to ___ and saw ___ for the same pain. He recommended modified work, wearing wrist splints, and prescribed Mobic, Darvocet N and Skelaxin. On 5/2/02 she was seen by ___, an Orthopedist who diagnosed her as having calcific tendonitis bilaterally of the shoulders. He recommended injections to both shoulders with Marcaine and Depomedrol, no overhead activity and Mobic as her anti-inflammatory agent. She was seen on 6/3/02 by ___ who continued therapy, job modifications and medications. On 6/24/02 she changed treating doctors and was evaluated by ___ who took her off work, started her on Celebrex and ordered an EMG/nerve conduction study.

___ was seen by ___ on 7/23/02 for a designated medical examination. His impression was bilateral wrist strain, bilateral elbow strain, bilateral shoulder strain. He recommended no EMG/nerve conduction study, that she change her job and contact ___. He placed her at MMI and gave her 6% whole person impairment. He also stated that she may require treatment for flare-ups of her condition. Retrospective peer reviews were carried out by ___ and associates. Dates of reviews are 9/18/03, 5/30/03 and 12/16/02. The 12/16/02 disclaimed any need for psychological treatment from her injury, which was with ___ and ___, licensed Psychologist. On that same date, a retrospective peer review with ___ and ___, Orthopaedic surgeon, recommended no further treatment. There was also a peer review on 6/20/02 from ___ and ___, Orthopaedic surgeon who similarly did not consider the soft tissue injuries to be significant. ___ continued to treat the patient for her ongoing symptoms with therapies and injections and medications. She gradually was placed in a pain management program that involved counseling. She gradually improved and ___ considered her to be at MMI. The carrier has denied all treatments.

DISPUTED SERVICES

Under dispute is the medical necessity of trigger point therapy, office visits, myofascial release, therapeutic procedures, joint mobilization, surgical trays and supplies, lidocaine injection, medicated gauze pad, syringe, betamethasone, noninvasive ear pulse oximetry, syringe, modality (97010), wrist cock-up non-molded, Texas form report.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient is a good example of an employee who was seen with a complaint that was initially accepted as a work-related injury by ___, ___ and ___ when she was being seen at ___. She was treated with work restrictions and medication, and she continued to work and receive therapy. However, in the course of her treatment, she continued to have symptoms that were not clearing.

She indeed had enough findings that she was placed at MMI and given a percentage of MMI in July by ____, but she found that she was still having symptoms and having difficulty functioning at work. She sought medical attention from ____ who recommended EMG studies. The records provided did not indicate that the study was performed. The patient continued to have symptoms and continued required treatment. ____ made an appropriate argument against the determination of the peer reviewers. This patient did have identifiable problems by four doctors that examined her, ____, ____, ____ and _____. The ____ reviewer finds that the treating doctor did provide treatment according to the treatment guidelines and to standard of care for this patient.

____ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ____ has made no determinations regarding benefits available under the injured employee's policy

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,