

MDR Tracking Number: M5-04-0996-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 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 8, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of 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 the only issue** to be resolved. The joint mobilization, therapeutic exercises and therapeutic activities from 11-19-02 through 11-27-02 **were** found to be medically necessary. The ultrasound, myofascial release and hot/cold packs from 11-19-02 through 11-27-012 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 11-19-02 through 11-27-02 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 27th day of April 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

April 14, 2004
Amended April 22, 2004

MDR Tracking #: M5-04-0996-01
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 Doctor of Chiropractic. 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

The patient suffered fractures of the second and third metatarsals of the right foot in a work-related accident as he dropped a 25-pound disk on his foot. He sought care from the ___ clinic. His treating doctor, ___, initially put him in a cast/boot and put him on crutches with partial weight bearing as of August 26th of 2002. Those notes indicate that the patient may have had displacement of the 3rd metatarsal, but that the fractures were healing. Notes beginning on September 9th failed to mention any displacement and it was noted that as of September 30th, the patient was fitted for an athletic shoe. It was at that point that PT was prescribed for the purpose of increasing the ROM and reducing edema in the right foot. The carrier's reviewer, ___ found that the care rendered was inappropriate for a fracture of the foot. ___ is a Physical Medicine/Rehabilitation specialist with a board certification in Occupational Medicine. He did state that strengthening exercises were beneficial, making it unclear as to whether he felt the care was reasonable or not. It seems that he was taking exception to the length of the care, rather than the actual use of PT on a patient with a fracture. A previous review was performed by Robert Thomas, MD (specialty unlisted) and stated that the therapy was beyond reasonable for a complicated metatarsal fracture. Still a 3rd reviewer, ___, MD, found that there was no medical necessity for the ongoing therapy.

DISPUTED SERVICES

The carrier has denied the medical necessity of myofascial release, joint mobilization, therapeutic exercises, therapeutic activities, ultrasound therapy and Hot/Cold packs from November 19, 2002 through November 27, 2002.

DECISION

The reviewer agrees with the prior adverse determination regarding ultrasound, myofascial release and hot/cold packs.

The reviewer disagrees with the prior adverse determination for all other care.

BASIS FOR THE DECISION

Records do indicate that the patient was clearly benefiting from the active care rendered on this case. The PT rendered was not excessive in relation to joint mobilization and therapeutic exercises. The patient responded to the care and his pain level clearly decreased with the therapy. The ultrasound, myofascial release and hot/cold packs seem to have been unnecessary as this case was not complicated due to re-injury or surgery. The need for such passive therapy is not documented. Joint mobilization is reasonable to a patient with immobility such as this patient had for an extended period.

___ 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,