

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-04-6390.M5

MDR Tracking Number: M5-04-1413-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 1-20-04.

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** 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 office visits, therapeutic exercises, joint mobilization, myofascial release, elastic bandage, ultrasound therapy, hot/cold packs, and aquatic therapy from 6/11/03 through 7/30/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

This Findings and Decision is hereby issued this 22nd day of April 2004.

Regina L. Cleave
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 6/11/03 through 7/30/03 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 22nd day of April 2004.

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

April 12, 2004

MDR Tracking #: M5-04-1413-01
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

___ sustained a work-related injury to her left ankle on ___. On the aforementioned date she was carrying a 25-pound 4x4 when her foot slipped, inverting her ankle. She was examined at ___ emergency room where x-rays were read as negative for fracture.

___ has treated the patient until the present time. His working diagnosis included internal ankle derangement, grade II sprain, and soft tissue swelling. An MRI revealed a stress fracture of the distal tibial metaphysis extending into the medial malleolus and a grade II sprain of the anterior talofibular ligament with effusion and distention of the mortise joint capsule. A referral was made to ___, a podiatrist, who concurred with the diagnosis of a stress fracture and ankle sprain and recommended continuing with ___ treatment plan.

Later, two injections were administered by ___ that provided temporary pain relief, allowing her to progress with her therapeutic exercise and therapy program with ___. Designated Doctor ___ examined ___ and concluded she was not at MMI and was unable to work. On October 29, 2003 a regional nerve block was conducted, as well as a trigger point injection into three areas of the foot and ankle. She was reexamined by ___ who consequently found her to be at MMI with a 4% whole person impairment.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, therapeutic exercises, joint mobilization, myofascial release, elastic bandage, ultrasound therapy, hot/cold packs and aquatic therapy provided from 06/11/03 through 07/30/03.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Upon review of the patient's record, the treating doctor made an appropriate referral for a second opinion and subsequent nerve block when ___ failed to progress as expected with conservative measures. The application of an elastic bandage, physical therapy modalities, and aquatic therapy were appropriate and intended to bring her case to a successful conclusion. The treatment was reasonable and necessary and was designed to increase function and decrease pain so she could return to gainful employment. The TWCC Medicine Ground Rules state on page 31, I (A) 2 that the treatment in question should be "specific" to the injury and provide potential improvement of the patients' condition. ___ treatment was medically necessary as it was intended to "cure or relieve" the symptoms resulting from the compensable injury as outlined in the Texas Workers' Act, section 401.001(31).

___ 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 ___, Inc, dba ___, 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,