

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

**SOAH DOCKET NO: 453-04-6068.M5**

MDR Tracking Number: M5-04-1583-01

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 2-2-04.

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 \$650** 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 visit, whirlpool, massage therapy, ultrasound therapy, and therapeutic exercises from 2/11/03 through 2/21/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

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 2/11/03 through 2/21/03 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 Decision and Order is hereby issued this 19<sup>th</sup> day of April 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division  
RLC/rlc

April 13, 2004

## NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-1583-01

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in physical medicine and rehabilitation. The \_\_\_ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ physician reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a 36 year-old male who sustained a work related injury on \_\_\_. The patient reported that while at work he injured his left foot when it was caught between a concrete wall and a metal plate. The patient presented to his treating doctor's office where he underwent x-rays and was diagnosed with a fracture of his tuberosity. On 7/24/02 the patient was evaluated by orthopedics and was diagnosed with a fracture of his tuberosity with mild planar displacement. The patient was placed in a posterior splint and given a prescription for Vicodin. A patient note from the patient's plastic surgeon dated 8/13/02 indicated that the patient had sustained a fracture to his left lower extremity that resulted in an area of unhealthy tissue on the medial aspect of the ankle requiring frequent dressing changes. A patient note from the same plastic surgeon dated 8/20/02 indicated that the treatment plan for this patient was for debridement and possible STSG, surgery would be the following Monday. A physical therapy initial evaluation note dated 12/24/02 indicated that after two weeks of the patient being in the splint, the patient underwent a skin graft on the medial and lateral aspect of the left ankle. It also indicated that the patient was referred for further treatment with physical therapy, followed by a work conditioning program.

### Requested Services

Therapeutic exercises, whirlpool, ultrasound therapy, massage therapy, and office outpatient visits from 2/11/03 through 2/21/03.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The \_\_\_ physician reviewer noted that this case concerns a 36 year-old male who sustained a work related injury to his left foot on \_\_\_.

The \_\_\_ physician reviewer indicated that the patient had been treated with physical therapy that consisted of whirlpool, ultrasound, exercises to increase range of motion and strengthen the left lower extremity, and soft tissue massage. The \_\_\_ physician reviewer noted that the patient made steady progress in his left ankle range of motion, strength and with his activity level between 2/11/03 through 2/20/03. The \_\_\_ physician reviewer explained that the patient's left ankle active range of motion had improved to within normal limits (as compared to the 1/16/03 exam), his pain level was zero, motor strength improved to within normal limits in his left lower extremity, and the patient was able to toe walk/hell walk, and get up. The \_\_\_ physician reviewer also explained that the patient's only limitation was the inability to fully squat. The \_\_\_ physician reviewer further explained that the patient achieved good results with continued physical therapy, and that the skilled physical therapy was medically necessary to achieve near normal range of motion, strength, and function in the left ankle. Therefore, the \_\_\_ physician consultant concluded that the therapeutic exercises, whirlpool, ultrasound therapy, massage therapy, and office outpatient visits from 2/11/03 through 2/21/03 were medically necessary to treat this patient's condition.

Sincerely,