

MDR Tracking Number: M5-04-2482-01

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 4-07-04.

Due to typographical errors on the original table of disputed services, the requestor submitted an updated table of disputed services to the Commission on 4/22/04 for dates of service 2/4/04 through 2/26/04.

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 ultrasound therapies rendered from 2/4/04 through 2/16/04 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 2/4/04 through 2/16/04 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 23rd day of June 2004.

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

June 14, 2004

MDR Tracking #: M5-04-2482-01
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

It is noted that the patient fell from a ladder, and as he tried to catch himself on a chair, the chair flipped and struck his right hand, fracturing the second finger on his right hand. It is also noted that he struck his right shoulder against the floor. He was taken to the emergency room where he was diagnosed with a sprain of the right shoulder and a fracture of the second right finger. The finger was splinted and placed in a bandage and he was released and told to follow up with his own doctor.

He was initially seen by ___ and was given an initial diagnostic impression of an open fracture of the neck of the second metacarpal bone of the right hand and acute traumatic sprain/strain of the rotator cuff of the right shoulder. He was referred to ___, an orthopedic surgeon. The patient did not initially want surgery, but reluctantly succumbed to surgery on 12/22/03 for an open reduction and internal pin fixation of the second metacarpal fracture of the right hand. He was cleared for post-operative rehab on January 6, 2004 and followed up with ___ on January 12, 2004 at which time postoperative rehabilitation as initiated. Removal of the two pins was performed on 03/23/04. Continued rehabilitation was recommended after that.

DISPUTED SERVICES

Under dispute is the medical necessity of ultrasound provided from 02/04/04 through 02/16/04.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The dates of service in question are approximately three to five weeks after the patient was cleared and initiated post-surgical rehabilitation. This is certainly well within a reasonable time frame. Based on the documentation provided, the ultrasound is being applied over the surgically-reduced fracture and not the shoulder. The reviewer has never seen any recommendations or documentation supporting the use of ultrasound post-surgically for bone fractures. Therapeutic ultrasound is sometimes used as a diagnostic tool to confirm fracture sites because it is known to cause periosteal irritation. With that said there is some documentation that shows the therapeutic non-thermal effects of ultrasound does stimulate bone repair, which would be appropriate in this case. A general contraindication of ultrasound, however, would be near or over metallic implants.

It appears that, overall, this patient's response to post-surgical rehabilitation, including the use of ultrasound, was positive and did conform to Section 408.021 of the Texas Labor Code, supporting its medical necessity. To be more specific, therefore, the documentation provided does support the medical necessity of ultrasound on the disputed dates of service.

___ 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,