

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

SOAH DOCKET NO. 453-05-0977.M5

MDR Tracking Number: M5-04-2567-01

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 04-16-04.

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 therapeutic exercises from 06-04-03 through 06-30-03 and the work hardening from 08-04-03 through 09-05-03 **were** found to be medically necessary. The therapeutic exercises after 06-30-03, work hardening after 09-05-03 and hot/cold pack therapy from 06-04-03 through 09-12-03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the therapeutic exercises, work hardening and hot/cold pack therapy from 06-04-03 through 09-12-03.

The above Findings and Decision are hereby issued on 27th day of August 2004.

Debra L. Hewitt
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 06-04-03 through 09-05-03 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 27th day of August 2004.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/dlh

Enclosure: IRO decision

NOTICE OF INDEPENDENT REVIEW DECISION

August 5, 2004

AMENDED LETTER 08/17/04

Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: Injured Worker:
MDR Tracking #: M5-04-2567-01
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. TMF's health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History:

This 47 year-old male suffered an upper back and right ankle injury when he fell from a truck on _____. He continues to have neck ankle pain with a diagnosis of neck strain/sprain and ankle strain/sprain. He completed a 4-week active rehabilitation program and then a six week work hardening program with minimal progress.

Requested Service(s):

Therapeutic exercise, hot and cold pack therapy, work hardening, initial and work hardening, each additional hour from 06/04/03 through 09/12/03

Decision:

It is determined that the therapeutic exercise from 06/04/03 through 06/30/03 and the work hardening services from 08/04/03 through 09/05/03 were medically necessary to treat the patient's condition.

However, the therapeutic exercises after 06/30/03, work hardening after 09/05/03, and hot/cold pack therapy from 06/04/03 through 09/12/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The MRI of the right ankle performed on 05/15/03 revealed sufficient pathology that would warrant a longer duration of rehabilitation services that could include an initial passive rehabilitation course for a limited time and active rehabilitation course. Since the hot/cold pack therapy is passive therapy, by 06/04/03 it was no longer medically necessary. However, since the therapeutic exercises were active rehabilitation, the exercises were appropriate to continue through 06/30/03.

The transition to work hardening services is appropriate based on the MRI of 05/15/03. However, after surgical approval was given on 09/05/03, the work hardening applications were not medically necessary. Performance of this therapy should have ceased given the progression toward invasive applications.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:vn

Attachment

Information Submitted to TMF for TWCC Review

Patient Name:

TWCC ID #: M5-04-2567-01

Information Submitted by Requestor:

- Affidavit of Custodian of Records
- MDR Request/Review
- Letter of Medical Necessity
- MDR Dispute Resolution Request
- Claims and Explanation of Benefits
- Rehab/Work Hardening therapy notes
- Texas Mutual Authorization letters
- First Report of Injury
- Office notes
- Emergency Room record
- MRI report

Information Submitted by Respondent: