

MDR Tracking Number: M5-04-2636-01

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 4-22-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the ultrasound therapy from 2/25/04 through 3/08/04 was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, the request for reimbursement for dates of service 2/25/04 through 3/08/04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 14th day of July 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 1, 2004

RE:

MDR Tracking #: M5-04-2636-01

IRO Certificate #: 5242

_____ 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 _____ 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 proposed 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 Chiropractic reviewer who has an ADL certification. The reviewer 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 for

independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

1. Request for re-consideration by _____ dated 5/28/04.
2. Initial exam report by _____ dated 11/24/04.
3. 2nd Opinion = Orthopedic surgeon referral examination report by _____ dated 11/25/04 reporting x-ray findings as fracture of the second metacarpal with displacement and offset at the level of the neck of the metacarpal. Recommendations of surgical procedure; closed reduction of pin fixation to fractured area, however the claimant refused to comply at that time, and elected for 2-3 week follow up and accepted the placement of a splint, plus continued medications and conservative care for the final assessment of closed fracture A-M metacarpal neck.
4. 2nd Opinion referral letter to carrier from _____ referring to _____ dated 12/08/03.
5. Orthopedic follow up evaluation by _____ dated 12/17/03 in which the claimant agreed to proceed with the closed fixation procedure.
6. Operative report of open reduction and internal fixation of right hand dated 12/22/03 by _____.
7. Post-operative follow up report by _____ dated 12/29/03 in which 3 x-rays views of right hand revealed good alignment of comminuted fracture, healing without complication. Additionally noted, the claimant to remain off work until re-assessment follow up, with future x-rays.
8. Letter to carrier dated 1/06/04 from _____ addressing the status of the unauthorized post operative therapy needed for claimant recovery.
9. Post-operative follow up by _____ dated 1/06/04 reporting x-ray findings as good alignment and position for the healing fracture. Continued conservative therapy with the inception of occupational therapy to maintain range of motion (ROM), and 2-week follow-up recommended.
10. Assorted occupational therapy notes dated 1/06/04 through 1/26/04 from _____.
11. Re-evaluation report by _____ dated 1/12/04 confirming the success of the surgical procedure and continuance of monitored post-operative therapy for 4 additional weeks.
12. Post-operative follow up with _____ dated 1/26/04 reporting continued good alignment and healing noted. There is still limited range of motion, however, it had improved since last follow up therefore additional strengthening exercises, for the continued 4 weeks of post-operative therapy, were implemented.
13. Assorted letters of request for re-consideration to carrier from _____ dated 2/02/04, 2/16/04, 3/01/04, 3/08/04, 3/18/04, 3/30/04, 4/07/04, 4/23/04, 5/03/04, 5/10/04, and finally 5/19/04 (11 total).
14. Assorted re-evaluation assessment by _____ dated 2/05/04, 4/07/04, and 4/30/04 denoting the status of post-operative healing and the important of the post-operative therapy to be continued after the procedure of pin removal.

15. Post-operative follow up by _____ dated 2/23/04 with continued good healing report however a small radiolucent line is still noted, and ROM remaining limited at the MP joint. Claimant is noted to still be off work.
16. Operative procedure report of pin removal by _____ dated 3/23/04 with no complications noted.
17. Post-operative pin removal / follow-up report dated 4/02/04 by _____.

Submitted by Respondent:

1. Table of disputed services (ultrasound therapy) with accompanying EOB's for DOS 2/025/04, 2/27/04, 3/01/04, 3/04/04, 3/05/04, and 3/08/04 from _____.

Clinical History

The claimant, _____, allegedly received injury to the right hand and right shoulder region while performing occupational duties for his employer, _____, on _____. The said injury, resultant from a fall from a ladder on to a chair, then on to the ground, impacting the right hand and shoulder region of the claimant, causing the immediate onset pain and blood flow from apparent fracture site.

The claimant was reportedly taken to the ER for immediate care, where x-rays were performed and the claimant was treated with medication and splint placement, and released, with referral instructions to follow up with his own physician for the assessment of right shoulder strain and right hand fracture of second finger.

On 11/24/03, two days following the work related incident, the claimant sought care with _____ who performed an initial exam and noted impressions of; (1) open fracture of neck of second metacarpal bone for right hand and (2) right shoulder acute traumatic sprain/strain of rotator cuff.

A 2nd Opinion referral examination was performed by _____ on 11/25/03, which concurred with x-ray findings as fracture of the second metacarpal with displacement and offset at the level of the neck of the metacarpal. Recommendations of surgical procedure; closed reduction of pin fixation to fractured area, however the claimant refused to comply at that time, and elected for 2-3 week follow up and accepted the placement of a splint, plus continued medications and conservative care for the final assessment of closed fracture A-M metacarpal neck. However, on the 12/17/03 follow up visit with _____, claimant finally agreed to proceed with the closed fixation procedure.

The operative procedure was performed by _____ 12/22/03 noted as; open reduction and internal fixation of right hand.

Post-operative follow up reports by _____ dated 12/29/03 through 2/23/04 stating a continuance of good alignment of comminuted fracture, and healing without complication. Additionally noted, claimant is to remain off work until re-assessment follow up, however, a small radiolucent line is still noted, and ROM remaining limited at the MP joint.

Letter to carrier dated 1/06/04 from _____ addressing the status of the un-authorized post operative therapy needed for claimant recovery.

Post-operative follow up by _____ dated 1/06/04 reporting x-ray findings as good alignment and position for the healing fracture. Continued conservative therapy with the inception of occupational therapy to maintain ROM, and a 2-week follow-up was recommended.

Assorted occupational therapy notes dated 1/06/04 through 1/26/04 from Cy-Fair Bone & Joint.

The re-evaluation report by _____ dated 1/12/04 confirmed the success of the surgical procedure and the continuance of monitored post-operative therapy, for 4 additional weeks.

Post-operative follow up with _____ dated 1/26/04 reporting continued good alignment and healing noted. There is still limited range of motion, however, it had improved since last follow up therefore additional strengthening exercises, for the continued 4 weeks of post-operative therapy, were implemented.

Assorted re-evaluation assessment by _____ dated 2/05/04, 4/07/04, and 4/30/04 denoted status of good post-operative healing and the importance of continued post-operative therapy for pin removal procedure for increased strength and ROM, prior to RTW.

Pin removal procedure by _____ dated 3/23/04 reported no complications and follow up on 4/02/04 denoted that the healing process was in final stages, with claimant symptoms decreasing, however the small radiolucent line is still present. Recommendations and inception of isometric / isotonic exercise with progressive resistive exercises, were additionally noted for increased strengthening prior to RTW.

The last available progress report from the treating doctor, _____, was the re-evaluation report dated 4/30/04, post pin removal.

Requested Service(s)

Please review and address the medical necessity of the outpatient services to include ultrasound therapy for dates of service (DOS) 2/25/04 thru 3/08/04.

Decision

I agree with the insurance company and find that evaluation/management (E/M) code 97035 (ultrasound) was not medically necessary for DOS 2/25/04 through 3/08/04.

Rationale/Basis for Decision

According to the documents for review, the claimant supposedly has had the benefit of ultrasound therapy at 3 times a week for approximately 6 weeks, in conjunction with an active rehab program, up to the DOS in question.

Despite the lack of daily treatment notes for this review, the update progress reports did not offer overwhelming evidence for the continuation of ultrasound therapy throughout this timeframe in dispute. The claimant was not reported to demonstrate any degree of moderate or severe swelling and on numerous reports swelling is not reported at all. (In fact, the 2/05/04 progress exam reports only minor redness and swelling noted; and on 2/26/04 no swelling is reported). The benefit of ultrasound at that point would be questionable and not cost effective. The main goal of this rehab should be focused on active movements while at the same time, decreasing passive type modalities whenever possible.

One could argue that the ultrasound aided in expediting the healing process or helped to reduce pain, although this was not readily apparent in the documentation and there was no reason that this claimant could not be involved in self-administered techniques, at a home-based level (i.e. cold/heat gel pack treatment, etc.), for any of the post surgical minor swelling, at that point.

There were no direct reasons given by the treating doctor, in support of the necessity of ultrasound therapy throughout this timeframe in the documentation and the claimant's subjective responses did not reveal any major clues.

The indication for ultrasound therapy in a post surgical setting is mainly focused towards decreasing swelling effects, early on, which, as progression in recovery is established, is better controlled by active measures, as is the development of fibrotic lesions.

Conclusion: The documents available for this review did not support a continued need for ultrasound therapy, for the DOS in question.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 2nd day of July 2004.