

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 (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 June 9, 2004.

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 \$460.00** 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 massage (97124), neuromuscular re-education (97112), therapeutic exercises (97110), ultrasound (97035), and office visit (99213) **were found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings & Decision is hereby issued this 3rd day of September 2004.

Patricia Rodriguez
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 01-30-04 through 02-27-04 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 Order is hereby issued this 3rd day of September 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

PR/pr

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 17, 2004

RE:

MDR Tracking #: M5-04-3445-01

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:

- Usual IRO assignment and necessary paperwork
- Several explanation of benefits
- Several billing forms – HCFA
- A 6/7/04 report which is a request for reconsideration and medical dispute resolution from _____
- Note from _____ relating to an elbow MRI
- Surgical/operative note of 12/30/03
- Letter of reconsideration of 3/24/04 from _____ regarding the disputed dates of service
- Prescription written by _____ dated 1/9/04 and 2/20/04 (the dates are uncertain because they are handwritten and illegible) for ultrasound, heat/ice, range of motion and strengthening 3 times per week for one month. The 2/20/04 is for a work hardening program times 6 weeks, it appears. These are, again, from the surgeon.
- A pre-authorization determination of 3/16/04 certifying 4 weeks of work hardening program

- Chiropractic daily notes of 1/30/04, 2/4/04 and 2/6/04
- Multiple treatment notes from the chiropractor dated 2/9/04 through 2/27/04 showing that the claimant's pain level decreased from an 8/10 to a 4/10 (this encompassed 9 visits)
- Follow up note of 1/9/04 from _____
- Electrodiagnostic study of 10/15/03 from _____
- Follow up of 6/30/04 from _____
- FCE report of 2/10/04
- Behavioral health evaluation of 2/28/03
- MRI report of the elbow dated 5/9/03
- MRI report of the right wrist dated 5/8/03
- Report from _____ dated 3/25/03
- Electrodiagnostic report of 3/10/03 from _____
- Right elbow x-ray report of 5/8/03
- Right wrist MRI report of 5/8/03
- FCE report of 7/8/03
- FCE report of 4/29/03
- Interim report from the chiropractor dated 1/12/04
- Multidisciplinary work hardening weekly staffing reports dated 4/12/04
- Behavioral evaluation of 2/28/03

Submitted by Respondent:

- IME report from _____ dated 12/7/03
- Work hardening program notations from _____ dated 3/22/04 through 4/16/04 (dates approximate)
- FCE report of 2/10/04
- Behavioral health assessment evaluation report of 2/28/03
- MRI report of the elbow dated approximately 5/9/03
- Surgical report dated 12/30/03 for a right chronic lateral epicondylitis condition
- Follow up note of 1/9/04 from _____.
- Treatment notes from _____ dated 3/2/04 through 3/19/04
- Evaluation from _____ dated 6/10/03
- TWCC-73 report from _____ of an unknown date (probably 6/10/03)
- Daily chiropractic notes from 1/30/04 through 2/6/04 for 3 visits
- More _____ daily treatment notes of 2/9/04 through 2/27/04
- Evaluation from _____ dated 3/25/03
- Electrodiagnostic report of the upper extremities dated 3/10/03 from _____
- Daily chiropractic notes from 1/12/04 through 1/28/04 for 8 visits
- Interim report from the chiropractor dated 1/12/04. This was the day the claimant began post operative rehabilitation
- Right elbow x-ray report dated 5/8/03
- MRI of the right wrist dated 5/8/03
- Initial consultation report from _____ dated 8/18/03
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- Division of Workers' Compensation supplemental physician's report from _____ dated 8/13/03
- Chiropractic daily notes from 4/24/03 through 6/27/03 for 26 visits
- Chiropractic initial evaluation report dated 4/22/03 from _____
- Letter of medical necessity for needle EMG dated 5/11/03 from _____
- Several upper extremity exams and treatment documentation from an unknown provider dated 8/13/03, 8/26/03, and 4/24/03
- FCE report of 7/8/03 revealing the claimant to be at the light duty capacity.
- FCE report of 4/29/03
- Change of treating physician request which was approved on 2/5/04 to _____ Please note that this was regarding a claimant by the name of _____ and this particular claimant whose records I am review is _____. The social security # on the change of treating physician request is different than the actual claimant whose file I am supposed to review, therefore, the change of treating physician request should be ignored. It somehow ended up in the documentation provided for review because the last names were similar.
- Electrodiagnostic study from _____ dated 10/15/03
- Multiple chiropractic daily notes and rehabilitation notes dated 9/12/03 through 10/29/03 for 20 visits
- _____ notes of 3/12/03, 4/23/03 and 5/5/03
- Several TWCC-73 forms from _____ and _____, some of which were undated
- TWCC-73 report from _____ dated 3/12/03. _____ diagnosed an epicondylitis and tenosynovitis injury.

Clinical History

It appears the claimant suffered what appeared to be a repetitive stress type injury due to his job as a silk screen printer on _____. The claimant was able to retain employment through April 2003; however, the pain became unbearable and he had to stop working. Some of the documentation revealed that the claimant actually struck his right elbow against the printing machine and this was the triggering mechanism for the pain; however, most of the documentation suggests that this was a repetitive strain injury that involved both wrists and both elbows. The claimant even demonstrated some electrodiagnostic evidence of C6 radiculopathy bilaterally. It appears that the compensable body area is to the right elbow. The claimant ended up undergoing surgery after failure of conservative care on 12/30/03. The claimant began post operative rehabilitation on 1/12/04 and had undergone about 8 visits of passive and some active physical therapy in the post operative setting as of the beginning of the disputed dates of service which run from 1/30/04 through 2/27/04. The claimant underwent a work hardening program in March and April 2004, and according to the treating physician was returned to work without restrictions. All of the diagnostic studies were carefully reviewed.

Requested Service(s)

Massage (97124), neuromuscular re-education (97112), therapeutic exercises (97110), ultrasound (97035), office visit (99213) for the dates of service 1/30/04 through 2/27/04.

Decision

I disagree with the insurance carrier and find that the services in dispute were medically necessary.

Rationale/Basis for Decision

The claimant underwent surgery on 12/30/03 and did not begin post operative rehabilitation until 1/12/04. Only 8 physical therapy visits had transpired by the time of the disputed dates of service which began on 1/30/04. The documentation during the disputed dates of services shows that the claimant's pain decreased from an 8/10 to a 4/10 and he was also able to use more weight during his rehabilitation which suggests that he was getting stronger. The highly evidence based Official Disability Guidelines recommend about 12 weeks of management in the post operative setting. The frequency of care does not need to be that frequent; however, 12 weeks of management in the post operative setting following a lateral epicondylectomy are considered reasonable and medically necessary. The documentation does show subjective and objective improvement within the range of the recommended treatment time frame for this particular post operative condition. The disputed dates of service ranged only from 4-8 weeks post operative and only 3-6 weeks from the initiation of post operative physical therapy. The care also became more active as time went by and care became more active in a very timely fashion. The services were reasonable and medically necessary and within the evidence based treatment guidelines.