

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-3660.M5**

MDR Tracking Number: M5-04-3709-01

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, 133.307 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. This dispute was received on 06-28-04.

The IRO reviewed work hardening rendered from 07-22-03 through 09-04-03 that were denied based upon "U" and "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 09-28-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT codes 97545-WH-AP and 97546-WH-AP dates of service 07-15-03 through 07-18-03 denied with an "L" denial code (not treating doctor). No reimbursement recommended as the requestor was not the treating doctor of record.

Review of CPT codes 97545-WH-AP and 97546-WH-AP date of service 07-23-03 revealed that neither the requestor nor the respondent submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

CPT codes 97545-WH-AP (1 unit) date of service 07-25-03 denied with denial code "F" (payment for interdisciplinary programs not accredited by CARF are reduced 20% below the maximum allowed reimbursement for that program). The requestor is a CARF provider. Reimbursement is \$64.00 per hour, however the requestor billed \$128.00. The carrier has paid \$102.40. No additional reimbursement is recommended.

CPT code 97546-WH-AP (5 units) date of service 07-25-03 denied with denial code "F" (payment for interdisciplinary programs not accredited by CARF are reduced 20% below the maximum allowed reimbursement for that program). The requestor is a CARF provider. Reimbursement is \$64.00 per hour. Additional reimbursement in the amount of \$64.00 is recommended (\$320.00 billed minus \$256.00 carrier payment).

CPT code 97545-WH-AP dates of service 08-04-03 through 09-22-03 (14 DOS) (14 units) denied with denial code "N" (peer review obtained by carrier indicates that the documented services do not meet minimum fee guideline and/or rules contained within the applicable AMA CPT/HCPCS coding guidelines). Review of documentation submitted by the requestor met documentation criteria. Reimbursement is recommended in the amount of \$896.00 (\$64.00 X 14 units).

CPT code 97546-WH-AP dates of service 08-04-03 through 09-22-03 (13 DOS) (65 units) denied with denial code "N" (peer review obtained by carrier indicates that the documented services do not meet minimum fee guideline and/or rules contained within the applicable AMA CPT/HCPCS coding guidelines).

Review of documentation submitted by the requestor met documentation criteria. Reimbursement is recommended in the amount of \$4,160.00 (\$64.00 X 65 units).

This Decision is hereby issued this 20th day of December 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 07-25-03 through 09-22-03 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 20th day of December 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

NOTICE OF INDEPENDENT REVIEW DECISION – AMENDED DECISION

Date: September 20, 2004

RE:

MDR Tracking #: M5-04-3709-01

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 notice of IRO assignment and documentation
- Letter of medical necessity dated 12/8/03
- Table of disputed services
- Voluminous amounts of billing information in the form of HCFA forms which encompassed the disputed dates of service also accompanied by voluminous amounts of explanation of benefits documentation
- Voluminous amounts of work hardening visit reports to include exercises performed, treatment logs and handwritten progress notes and this documentation correlated with the disputed dates of service
- Psychological group note summary reports which ran from 7/15/03 through 9/16/03 – these reports were also accompanied by weekly progress notes as part of the work hardening program as well as exercise flow sheets
- Notice of IME or designated doctor evaluation appointment dated 7/17/03
- Impairment rating/FCE billing form of 7/11/03 probably regarding the FCE of the same date
- Initial FCE report of 7/11/03
- Multiple missed appointment notices for missed appointments which occurred on 6/2/03, 6/6/03, 9/10/03, 9/11/03, 9/5/03, 8/22/03, 8/13/03, 8/8/03 and 7/28/03
- Re-evaluation report from Rehab 2112 dated 6/13/03
- Initial evaluation report from Rehab 2112 dated 5/21/03
- Final FCE report of 9/2/03
- Interim FCE report of 8/5/03
- Note from ____ dated 7/11/03 stating the claimant had some anxiety and this was reportedly the only justification for any type of psychological intervention
- Multiple work hardening program orientation and policies sheets
- Peer review report of 8/28/03 stating the work hardening program was not medically necessary
- Multiple Accident and Injury Chiropractic Clinic examination sheets and daily notes which ran from 4/14/03 through 5/12/03
- Medical consultation from ____ dated 4/28/03
- Initial report from ____ dated 4/23/03 – this report was prepared by ____ who is no longer with ____
- Notes of 5/1/03 and 5/15/03 from ____ – I would direct the reader's attention to ____ 5/15/03 note which states "I explained to the patient through an interpreter again that fractures of the calcaneus are notorious for causing symptoms for a very long period of time and occasionally permanently." I will get back to this statement later in the report
- Multiple ____ documentation

- X-ray report regarding the left ankle and left foot which essentially only revealed evidence of mild soft tissue swelling, there was no evidence of fracture or dislocation at this time; however, an MRI of the foot reportedly picked up the presence of an incomplete nondisplaced fracture of the heel or calcaneus
- Electrodiagnostic report of 4/18/03 revealing the claimant to have no nerve entrapment except there was evidence of left L5 nerve root radiculopathy and left S1 nerve root radiculopathy that was in no way related to the injury
- TWCC-73 report from ____ dated 4/14/03 recommending the claimant to be off work for one month
- Change of treating physician request of 5/12/03 because ____ was no longer in the clinic
- MRI report of the left ankle dated 4/15/03

- MRI report of the left foot dated 4/15/03

Submitted by Respondent:

- None submitted

Clinical History

According to the documentation provided for review, the claimant was reportedly struck by a heavy metal object and fell about 3 feet and struck the posterior aspect of the left ankle and calf; however, further review of the documentation revealed that an object that reportedly weighed between 200 – 300 pounds struck the claimant's foot from a height of about 3 feet and that the claimant did not actually fall. The claimant reported for chiropractic care about 5 days post injury and received the usual amount of passive and active modality treatment before being transitioned into a work hardening program. The 3 FCE reports which were reviewed revealed no change in the claimant's functional status whatsoever. The initial FCE revealed the claimant to be actually functioning above his required functional level. The claimant was reportedly at the medium/heavy duty level, yet he was reportedly required to function at the medium duty level. The only improvements were in the claimant's ankle range of motion after 6 weeks of very extensive and non-cost effective work hardening. Even though there were minimal to no improvements noted after 6 weeks of work hardening, 2 more weeks occurred and again the claimant demonstrated no evidence of functional improvement and subjectively he was about the same. The claimant was documented to be a welder at the time of the accident. It was quite clear from the documentation that the claimant's only difficulties were associated with his left ankle and foot and that any deficiencies including cardiovascular and functional deficiencies were solely related to the claimant's foot. It is important to note that the claimant missed at least 9 appointments during the course of his care. A peer review report of 8/28/03 revealed that there was no evidence of psychological issues and no evidence of psychological testing to warrant the multidisciplinary work hardening program. The 2.5 inches of documentation that I reviewed contained no evidence of psychological testing and the only psychological issue appeared to be some evidence of non-specified anxiety.

Requested Service(s)

Work hardening program (97545/97546-WH) which ran from 7/21/03 through 9/4/03. This case contains mixed issues and I was asked to review services with a U or a V code for denial.

Decision

I agree with the insurance carrier and find that the services in dispute were not medically necessary.

Rationale/Basis for Decision

The documentation revealed that the claimant's injury and dysfunction were solely related to the claimant's left foot and ankle. This particular injury would not need an expensive multidisciplinary approach. There was no evidence whatsoever of psychological overlay except for the normal amount of non-specific anxiety which would be expected. _____ stated on 5/15/03 that fractures of the calcaneus are notorious for causing symptoms for a very long period of time and occasionally permanently. This means that these types of problems persist regardless of the amount of treatment rendered in that no amount of treatment is going to progress the claimant any faster than the natural history. The lack of improvement and relatively stationary functional status, which were confirmed via the 3 FCEs, supports this statement. This essentially leaves us with an ankle sprain/strain which could be easily rehabilitated within a 6-8 week period of time in accordance with the recommendations of the highly evidence based Official Disability Guidelines. The claimant was also able to function at the medium to heavy duty level even prior to the work hardening program and there was absolutely no change in the claimant's status throughout the entirety of the work hardening program except for some increases in ankle range of motion which of course could have been accomplished via a regular active care and self administered program. I saw absolutely no rationale whatsoever to support the medical necessity of this work hardening program.