

MDR Tracking Number: M5-04-3735-01

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 06-29-04.

CPT Code 99080-73 (Special Reports) for date of service 12-15-03 was withdrawn by the requester.

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** 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 following services **were found** to be medically necessary: all services from 12-15-03 through 12-19-03; therapeutic exercises from 12-23-03 through 1-28-04, office visits from 12-23-03 through 2-5-04, ultrasound from 12-23-04 through 1-8-04, manual therapeutic technique from 12-23-03 through 1-8-04, and neuromuscular reeducation from 1-13-04 through 2-5-04. All other services **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 24th day of August, 2004.

Donna Auby
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 12-15-03 through 2-5-04 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 24th day of August, 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/da

08/16/2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3735-01
IRO #: 5284

Specialty IRO 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 Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty 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.

This case was reviewed by a licensed Chiropractor. The Specialty IRO 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 Specialty IRO 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

___ was injured on ___ while working for ___. He reportedly stepped on an object causing ankle inversion and a fall by ___. ___ is noted to be 6'3 and weighs 234 lbs. According to the records, ___ presented to Dr. H, DC on 11/6/03. A peer review by Dr. W, DC on 2/18/04 indicated that no further care was necessary. Of interest is the statement by Dr. W that "it is now February 18, 2004, it is unsure if Dr. H is still treating this patient due to the fact that he will not return any calls. So based on my medical professional opinion, this patient has merely a right ankle sprain/strain." Dr. W did not state he reviewed any records such as the MRI dated 11/10/03 which indicated that there were bone marrow changes of the talus, a possible incomplete fracture, severe strain of the lateral collateral ligaments of the ankle, effusion and swelling. On 12/19/03, Dr. B, DC indicates that no treatment is necessary beyond 12/19/03. Dr. H retorts Dr. B's studies which were used to deny care by stating that both studies related to lumbar spine pain and lumbar disc injury. An FCE on 1/21/04 indicates the patient is at a light/medium PDL while he is required to be at a heavy PDL. Passive and active therapies were performed from presentation until surgery consultation was performed by ___, DPM. The consultation on 2/2/04 notes the recommendation of ankle arthroscopy to remove a chip fracture, ATL and CFL ligament repair, and arthrotomy to repair stability. The patient notes on this date that he wants to have surgery because his ankle always 'gives out' when he walks without support. The surgical procedures on 2/20/04 included a right ankle arthrotomy of the osteochondral lesion of the talus, arthroscopy and lateral ligament repair of the ATF an CFL. On 3/1/04, Dr. L notes that neuritis is present due to a superficial peroneals nerve damage or entrapment. A CPM machine was prescribed on 3/8/04. On 6/21/04 a peer review was performed by Dr. Z, DO, DC. Dr. Z indicates that care was slightly extended; however, was generally within reason. He notes the need for an FCE to determine the patient's current PDL and work status.

DISPUTED SERVICES

Disputed services include 99214, 97032, E1399, 97140, 97110, 99212, 97035 and 97112 as denied by the carrier with "V" codes from 12/15/03 through 2/5/04.

DECISION

The reviewer disagrees with the previous adverse determination regarding the following services: All services from 12/15/03 through 12/19/03 per the documented peer review by Dr. B. In addition to the previous services, the reviewer disagrees with the previous adverse determination regarding CPT code 97110 from 12/23/03 through 1/28/04; Office visits (99212) from 12/23/03 through 2/5/04; 97035 from 12/23/03 through 1/8/04; 97140 from 12/23/03 through 1/8/04; and 97112 from 1/13/04 through 2/5/04.

The reviewer agrees with the previous adverse determination regarding all other services.

BASIS FOR THE DECISION

The reviewer indicates that nothing could be found in the records indicating that a peer review did not allow any services prior to 12/19/03. Regarding code E1399 the reviewer does not find any reference to these services in the notes; therefore, medical necessity cannot be established. The rehabilitation performed on this case meets the standards of TLC 408.021 as it helped to return the patient to a more functional level. Pain levels were low during the treatment and the patient functionally improved during treatment. However, the stability of the ankle was not established. Therefore, the patient required surgery. According to the records, the patient improved with all the services performed. The reviewer notes that the approved treatment complied with The Medical Disability Advisor, by Dr. R, MD indicates that the treatment performed is within established norms for a large frame patient and the injury that was present.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,