MDR Tracking Number: M5-03-1328-01

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. This dispute was received on 1-24-02.

The IRO reviewed office visits and physical therapy rendered from 1-11-02 through 7-15-02 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

The IRO concluded that the services provided from 1-11-02 through 4-8-02 and from 7-11-02 through 7-17-02, and aquatic therapy rendered from 5-14-02 through 7-17-02 were not medically necessary. The IRO concluded that services rendered from 4-9-02 through 7-10-02 were medically necessary.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees. 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.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

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

On August 14, 2003, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$ (Maximum Allowable Reimbursement)	Reference	Rationale
10-1-02	99213MP	$51.00	$0.00	F	$48.00	Medicine GR (I)(B)(1)(b)	EOB shows paid.
9-19-02	99080-73	$15.00	$0.00	F	$15.00	Rule 129.5(d)	

This Decision is hereby issued this 3rd day of November 2003.

Elizabeth Pickle
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 1-11-02 through 10-1-02 in this dispute.

This Order is hereby issued this 3rd day of November 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

August 11, 2003

REVISED DECISION
Correction of Dates

Re: Medical Dispute Resolution
MDR #: M5-03-1328-01

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Certified in Chiropractic Medicine.

Clinical History:

This female claimant suffered an on-the-job injury on ___. She developed an impingement and partial rotator cuff tear over the right shoulder. Rehabilitative applications were applied that included office visits with/without manipulation and physical therapy applications from 01/11/02 through 07/17/02. Surgical correction of the patient's right rotator cuff tear and impingement were performed on 03/01/02.

Disputed Services:

Physical therapy modalities and office visits with/without manipulation from 01/11/02 through 07/17/02.

Decision:

The reviewer partially agrees with the determination of the insurance carrier. The reviewer is of the opinion that the services provided from 01/11/02 through 04/08/02, and from 07/11/02 through 07/17/02, and aquatic therapy rendered from 05/14/02 through 07/17/02, were not medically necessary. The services rendered from 04/09/02 through 07/10/02 were medically necessary.

Rationale:

The services rendered from 04/09/02 through 07/10/02 are clearly a part of a post-operative rehabilitation program that was initiated following right shoulder surgical repair of the rotator cuff tear and impingement on 03/01/02.

Applications prior to 04/09/02, from the documentation submitted for review, have no medically necessary basis. Also, services applied following 07/10/02 have no medically necessary basis.

The rationale for progression to aquatic-based therapies on 05/14/02 through 07/17/02 is unclear. On numerous occasions, while the patient was in a land-based therapeutic program, it was noted that the patient was progressing satisfactorily and well. Yet, the provider regressed the patient into unloaded therapeutic applications in an aquatic medium. Aquatic rehabilitation is an essential portion of certain rehabilitation algorithms; however, the medical record is unclear as to how the patient was a candidate for these services.

It is apparent, from review of the medical records, that the provider did not activate an active rehabilitation algorithm as rapidly as expected. The use of passive modalities is not time-limited. No documentation was provided to warrant the extension of passive services in the treatment of this patient's medical condition.

Clinical References:

- Clinical Practice Guidelines for Chronic Non-Malignant Pain Syndrome Patients II: An Evidence-Based Approach. J. Back Musculoskeletal Rehabil., 1999, Jan 1, 13: 47-58.
- Overview of Implementation of Outcome Assessment Case Management in the Clinical Practice. Washington State Chiropractic Association; 2001, 54 p.

According to Texas Labor Code 408:021(a), an employee is entitled to the care reasonably required in association with their injury and the treatment thereof. If the patient's condition is not stable, the care to maintain and promote healing is medically necessary.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,