

MDR Tracking Number: M5-03-2773-01

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 (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 30, 2003.

Correspondence submitted by ___y, dated 10/15/03 revealed that ___ does not desire to pursue the fee issues for dates of service 11/7/02, 11/29/02. Therefore a decision will be rendered to address the medical necessity issues only as requested by ___.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the medical necessity issues. 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 \$650.000** 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 physical therapy, office visits and special reports for dates of service 10/9/02 through 10/30/02 and 11/13/02 through 11/21/02 were found to be medically necessary. The physical therapy, office visits and special reports for dates of service 12/4/02 through 12/20/02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the physical therapy charges.

This Findings and Decision is hereby issued this 31st day of October 2003.

Margaret Q. Ojeda
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 10/9/02 through 10/30/02 and 11/13/02 through 11/21/02 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 31st day of October 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/mqo

October 29, 2003

NOTICE OF INDEPENDENT REVIEW DECISION
Corrected Letter

RE: MDR Tracking #: M5-03-2773-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in physical medicine and rehabilitation. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 53 year-old male who sustained a work related injury on ___. The patient reported that he injured his knee while climbing up in and out of his truck. The initial diagnosis for this patient was contusion of the left knee. Treatment of this patient's condition has included bracing of the knee, oral pain medications and physical therapy. The patient has undergone an MRI of the left knee. The patient underwent arthroscopic knee surgery that included removal bone chips, undersurface of patella smoothed out and medical meniscal tear. The patient was treated post surgically with further physical therapy.

Requested Services

Physical therapy, office visits and special reports 10/9/02 through 10/30/02, 11/13/02 through 11/21/02, 12/4/02 through 12/20/02.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

Rationale/Basis for Decision

The ___ physician reviewer noted that this case concerns a 53 year-old male with a left knee injury who received several physical therapy sessions. The ___ physician reviewer also noted that the patient received physical therapy postoperatively from 9/10/02 through 10/7/02. The ___ physician reviewer indicated that the patient had improved range of motion in the left knee, a near normal hamstring, improved motor strength and a decrease in pain. However, the ___ physician reviewer also indicated that the patient still had a limited standing tolerance of 2 hours. The ___ physician reviewer explained that from 10/7/02 through 10/21/02 the patient had no change in range of motion, demonstrated some improvement in hamstring, a decrease in pain and still with limited standing/walking tolerance of 2 hours. The ___ physician reviewer indicated that between 10/21/02 and 11/20/02 the patients range of motion and strength showed no change (range of motion actually decreased), pain was the same and the activity tolerance level was slightly better. The ___ physician reviewer also indicated that from 11/21/02 through 12/13/02, the patient demonstrated no change in range of motion, function, strength, muscle girth or pain. The ___ physician reviewer explained that based on the patient's overall trend of improvement, physical therapy was medically necessary until 11/21/02. Therefore, the ___ physician consultant concluded that the physical therapy, office visits and special reports from 10/9/02 through 10/30/02, 11/13/02 through 11/21/02 were medically necessary to treat this patient's condition. However, the ___ physician consultant also concluded that the physical therapy, office visits and special reports from 12/4/02 through 12/20/02 were not medically necessary to treat this patient's condition.

Sincerely,