

MDR Tracking Number: M5-03-3164-01

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 August 1, 2003.

Dates of service 7/18/02 through 8/1/02 were received after the one year filing deadline. Therefore dates of service 7/18/02 through 8/1/02 are deemed untimely and cannot be considered for review.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the therapeutic exercises, neuromuscular re-education, gait training, kinetic activities were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the therapeutic exercises, neuromuscular re-education, gait training, kinetic activities were not found to be medically necessary, reimbursement for dates of service from 8/2/02 through 9/5/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 30<sup>th</sup> day of September 2003.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division  
MQO/mqo

#### **NOTICE OF INDEPENDENT REVIEW DETERMINATION**

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September 22, 2003

An independent review of the above-referenced case has been completed by a medical physician board certified in orthopedic surgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_.

#### CLINICAL HISTORY

In 1999, \_\_\_ underwent an ACL reconstruction and assumedly postoperatively had physical therapy. This is not documented, but it remains the standard of medical treatment even in 1999.

On \_\_\_, a work related injury occurred. There is documentation that immediately after his work injury, the patient underwent physical therapy for rehabilitation of his knee. Ultimately on 2/21/02, a right knee revision of the ACL was undertaken with an autologous hamstring graft. Immediately after the surgery, physical therapy was begun. Notes and documentation April, May and June of 2002 suggested a routine ACL protocol with both quadriceps and hamstrings rehabilitation.

In June, \_\_\_ prescribed more physical therapy with a prescription defining the patient had a typical ACL graft and there were no unusual precautions. June and 7/18 – 8/2/02 physical therapy was delivered. Codes 97110, 97530 were applied as well as occasional 97112 and 97116. These medical notes suggested the continued progress and improvement in the patient's clinical condition.

Closely detailing the physical therapy notes 8/2/02 – 9/5/02, which is the period in contestation regarding unnecessary treatment, this patient had continual two to three times a week therapy delivered. VAS scales between 3-6/10 were noted. The patient continued therapy which included biking, squats, box steps, treadmill, hamstring curls and wall squats as well as other simple exercises.

Under physician recommendation, this was denied as medically unnecessary treatment. A letter of contestation was received by \_\_\_. Their letter of contestation suggested this was medically appropriate therapy. The suggested this was done at the prescription of an orthopedic surgeon, hence the necessity.

#### REQUESTED SERVICE(S)

Therapeutic procedure, neuromuscular re-education, gait training, kinetic activities for dates of service 8/2/02 through 9/5/02.

## DECISION

Uphold prior denial.

## RATIONALE/BASIS FOR DECISION

Certainly it is a recognized orthopedic standard that physical therapy and both active and passive modalities would be used during the acute throes of a musculoskeletal event, be it an injury and/or surgery. This patient had been schooled, educated, coached and trained in a physical therapy program in \_\_\_ when he first injured his knee. He received similar training in June of 2001 after the injury, as well as an abundant amount of therapy directly post surgery of 2/21/02. Refer to the therapy notes of April, May, June and July 2002.

Without question, what was repetitively done in-house, monitored from 8/2/02 through 9/5/02 could have been accomplished in a much less intensive setting with the same end result. This patient's pain was well controlled and stable on oral medications, and he could have been safely monitored intermittently during this epoch by his physician, \_\_\_, or one visit monthly per physical therapists to monitor progress. There was no necessity for the amount, duration and intensity of therapy from 8/2/02 – 9/5/02; therefore, uphold the carrier's denial of treatment as being medically unnecessary.

The opinions rendered in this case are the opinions of the evaluator. This evaluation has been conducted on the basis of the medical documentation provided with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional services, reports, or reconsideration may be requested. Such information may or may not change the opinions rendered in this evaluation. This opinion is based on a clinical assessment from the documentation provided.

## **YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

**If disputing other prospective medical necessity (preauthorization) decisions** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk  
Texas Workers' Compensation Commission  
P.O. Box 17787  
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 24<sup>th</sup> day of September 2003.