

MDR Tracking Number: M5-03-3348-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 8-11-03.

The IRO reviewed aquatic therapy and group therapeutic procedures 8-22-02 through 10-10-02.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO agreed with the carrier that the group therapy procedures from 8-22-02 through 11-26-02 were **not** medically necessary. The IRO concluded that the aquatic therapy on 10-8-02 was medically necessary. 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.

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

On 12-2-03, 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. On 12-9-03, the requestor submitted a withdrawal letter for CPT codes 97113 and 97150 rendered on 10-10-02 and denied per the 1996 *Medical Fee Guideline*.

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 Order is applicable for date of service 10-8-02 in this dispute.

This Order is hereby issued this 6th day of February 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

November 26, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION
Corrected Letter**

RE: MDR Tracking #: M5-03-3348-01

___ 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 41 year-old male who sustained a work related injury on ___. The patient reported that while at work he was moving an exhibit into a show hall when he injured his low back. The patient underwent an MRI on 10/7/98 that indicated moderated disc desiccation and diffuse disc protrusion at the L5-S1 level, mild bilateral facet atrophy at the L4-L5 level and moderated disc desiccation with 1 mm of posterior disc bulge at the L1-L2 level. The patient was treated with conservative care and then underwent back surgery on 7/12/99. Diagnoses for this patient have included low back pain, post lumbar laminectomy and fusion with Ray cage instrumentation, musculoskeletal spasm of thoracic and lumbar spine and dysesthesia pain of the right leg secondary to nerve root injury. The patient was referred to another facility for possible entrance into a pain management program on 7/16/02. He was then treated with an aquatic based physical therapy regimen.

Requested Services

Aquatic therapy 97113 on 10/8/02 and group therapeutic procedures 97150 from 8/22/02 through 11/26/02.

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 40 year-old male who sustained a work related injury on ____. The ___ physician reviewer indicated that this patient has undergone multiple treatments including surgery and continues with persistent pain and decreased function. The ___ physician reviewer explained that the patient was referred to a pain management program. However, the ___ physician reviewer indicated that it was felt the patient would not be able to participate in the full completion of the program due to significant limitations in function and significant pain level. The ___ physician reviewer noted that the patient was then referred to aquatic therapy where the goal would be to decrease pain and tolerate the therapy for at least an hour. The ___ physician reviewer explained that the patient met these goals. The ___ physician reviewer indicated that a physical therapy progress note emphasized the one to one treatment received by the patient. Therefore, the ___ physician consultant concluded that the group therapy procedures 91750 from 8/22/02 through 11/26/02 were not medically necessary to treat this patient's condition. However, the ___ physician consultant also concluded that the aquatic therapy 97113 on 10/8/02 were medically necessary to treat this patient's condition.

Sincerely,

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