

MDR Tracking Number: M5-03-2491-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 17, 2001 and Commission Rule 133.305 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 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 aquatic therapy and therapeutic 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 the aquatic therapy and therapeutic activity fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 12/10/02 to 1/23/03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 19th day of August 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division
CRL/crl

July 28, 2003,

Amended August 13, 2003

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IRO #: 5251

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

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Occupational Medicine. The ___ 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 ___ 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

___, a 27-year-old male employed by ___, sustained a work-related injury on ___. He was going down a stairway while working at ___ and stated that the platform he was going to step down onto had a step missing. He fell approximately ten feet, landing on a steel bar grating, sustaining a laceration to the head, left ankle sprain and bruising to the entire body. He was taken to ___ emergency room where he had a CT scan, cervical x-rays and a series of x-rays. He was placed in a cast and released. ___ had cervical, spine, abdominal, ribcage, right and left knee, and left ankle pain. He was sore all over and he was in a wheelchair. His pain was worse with coughing or sneezing.

This patient presented to ___ on 11/15/02 with the main complaints of pain to the cervical spine, left ankle, right and left knees, abdominal, ribcage, and right and left arms. He also had a head laceration.

___ apparently had an MRI scan of the left foot and of the left ankle, although that report was not made available to the reviewer. He was treated with physical therapy in a pool. He reached MMI status on 2/18/03 and was given a five percent (5%) whole person impairment from the injury.

DISPUTED SERVICES

Under dispute is the medical necessity of aquatic therapy and therapeutic activities provided from 12/10/02 through 1/23/03.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The ___ reviewer finds no documentation of the medical necessity for aquatic therapy and therapeutic exercises from 12/10/02 through 1/23/03.

___ letter of 7/7/03 states that this patient's therapy, including all therapeutic exercises, were provided in a swimming pool due to the patient's inability to walk or support his weight on his legs and due to the severe injury and sprain to the left ankle as reported on the MRI scan. His treatment was later advanced to the gym and he continued therapy.

___ notes show that he initially saw ___ on 11/15/02, and on that date of evaluation he was in a wheelchair. However, the follow-up note on 11/25/02 showed that he was using a cane for ambulation. His gait was antalgic and he was independent in his activities of daily living. The report of 12/9/02 showed that his posture was normal for sitting, standing and walking. Strength was normal for the muscles of the upper and lower extremities, and his gait was normal. He continued to be independent in his activities of daily living. The report of 12/23/02 showed that the pain to the left ankle had not improved, though the physical examination showed that his gait was normal. The note of 12/26/02 showed that he was using a brace. The gait was antalgic and he was using a cane for ambulation. The report of 1/6/03 showed that his posture was normal for walking and that he ambulated with a cane. The report of 1/21/03 showed that he was no longer using a cane. The report of 2/4/03 showed that his gait was antalgic but improving, and he was using a cane. The report of 2/18/03, a Report Medical Evaluation (RME) showed that ___ reached MMI on 2/18/03 and he was given a five percent (5%) whole person impairment.

A review of the TWCC-73 reports shows that this patient was able to do restricted duties as of 12/2/02, although he was subsequently kept out of work and was not able to return to work until 2/18/03, at which time he was able to do restricted duties.

Review of the above reports show that on 11/15/02 ___ ordered physical therapy five days a week for three weeks. On 11/25/02 he ordered physical therapy five days a week for two weeks. On 12/9/03 he ordered physical therapy five days a week for two weeks. On 1/6/03 he ordered physical therapy five days a week for two weeks.

However, of importance are the daily physical therapy notes that were reviewed. The therapist made note on the entry of 11/18/02 that this patient presented with a cane and antalgic gait. However, he left without the use of the cane. The reports from 11/20/02 forward until the report of 1/23/03 show that, for most of the visits, this patient complained only of soreness to the left ankle, and that he stated improvement. On 12/10/02 the therapist noted that the left ankle felt better on that day.

Therefore, based on the above reports submitted for review, this patient started his physical therapy on 11/18/02, three days after he initially saw ___. The daily physical therapy notes show that he complained mostly of soreness to the ankle and improved. There are a few entries where he noted that his pain did increase, but overall he was complaining of soreness and the notes indicate that he was improving.

Furthermore, ___ note of 12/9/02 shows that the patient's posture was normal for walking, strength was normal for the muscles of the upper and lower extremities, and the reflexes were 2/4, coordination was normal, pathologic reflexes were negative, and gait was normal. ___ was independent in his activities of daily living.

Therefore, it appears that ___ improved with the initial physical therapy that was started on 11/18/02. Based on the above, the reviewer finds that the aquatic therapy and therapeutic exercises from 12/10/02 through 1/23/03 were not medically necessary.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

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

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,