

MDR Tracking Number: M5-04-0582-01

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 10-24-03.

The IRO reviewed therapeutic exercises, therapeutic activities, and electrical stimulation from 4-11-03 through 5-30-03.

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 concluded that the therapeutic exercises and the therapeutic activities on 4-11-03 and 4-14-03 **were** medically necessary. The IRO agreed with the previous adverse determination that the therapeutic exercises and the therapeutic activities from 4-17-03 through 5-30-03 and the electrical stimulation from 4-11-03 through 5-30-03 **were not** 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 1-28-04, 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 requestor failed to submit relevant information to support components of the fee dispute in accordance with Rule 133.307(g)(3)(A-F). No reimbursement recommended.

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 dates of service 4-11-03 through 4-14-03 in this dispute.

This Order is hereby issued this 26th day of March 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

January 26, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: MDR #: M5-04-0582-01
IRO Certificate No.: IRO 5055

___ 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.

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.

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

Clinical History:

The patient is a 38-year-old female with a history of hypertension and diabetes mellitus, who was injured on her job on ____. The patient experienced slowly progressive onset of severe pain in her left knee. She developed both locking and mechanical give way. An MRI of her left knee revealed a torn medial meniscus. She subsequently failed conservative treatment, failed a conservative treatment algorithm, continued to experience locking and give way, as well as swelling and severe pain, which led to an arthroscopy on 01/21/03. The patient had a short reprise but developed, rather, left knee cellulitis in early February. This was treated with antibiotics. She continued to experience pain for several months. It seemed to be worsening per the outside records.

Again, her medial meniscus was found to be torn on MRI dated 05/15/03. She underwent arthroscopy again on 10/07/03 and was continued on physical therapy, as well as wearing her Bledsoe brace thereafter.

Disputed Services:

Electrical stimulation, therapeutic exercises, and therapeutic activities during the period of 04/11/03 through 05/30/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier. Therapeutic exercises and therapeutic activities rendered on 04/11/03 and 04/14/03 **were medically necessary**. All of the electrical stimulation rendered during the period of 04/11/03 through 05/30/03 **was not medically necessary**. Therapeutic exercises and therapeutic activities rendered from 04/17/03 through 05/30/03 were **not medically necessary**.

Rationale:

Considering the patient's clinical history, passive therapeutic modalities, including electrical stimulation, were not warranted during the entire time period disputed. The patient was clearly failing conservative treatment and was awaiting surgical intervention during the period of 04/17/03 through 05/30/03, making therapeutic exercise and therapeutic activities during that period not medically necessary.

The therapeutic exercise and activities performed on 04/11/03 and 04/14/03 were medically necessary simply because at that juncture, the patient was showing some aspect of improvement with her knee pain and the symptomatology.

Referenced peer-reviewed articles include the work by doctors Moldofsky, Fordyce, and King. In addition, one may reference Braddom's textbook, *Physical Medicine and Rehabilitation*, specifically Dr. David Weber's chapter on therapeutic modalities.