

MDR Tracking Number: M5-04-1105-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-16-03.

The Medical Review 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 activities, office visits, therapeutic exercises, electrical stimulation, and special reports 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 Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 1/29/03 through 3/31/03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 1<sup>st</sup> day of April 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division  
RLC/rlc

March 29, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

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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 Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). 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

\_\_\_ was being treated for various complaints, the most prevalent appeared to be knee pain. There is no description in the documentation of how the injury occurred. He was treated with therapeutic exercise, therapeutic activities and passive modalities, and there were charges also for office visits and special reports.

#### DISPUTED SERVICES

Under dispute is the medical necessity of therapeutic activities, office visits, therapeutic exercises, electrical stimulation and special reports.

#### DECISION

The reviewer agrees with the prior adverse determination.

#### BASIS FOR THE DECISION

This patient, based solely on the visual analog pain scale, appeared to have made some progress with care, however, the documentation was severely lacking. The daily notes were extremely contradictory. The first note in the review packet was dated January 29<sup>th</sup>. Under the section marked "Objective" there was simply a description of orthopedic testing, with no indication of the outcome of that testing. The documentation read "Apley's Compression orthopedic test was in the knee." This was true of each test listed. Then following that statement was a description of how the test was carried out. In no instance was the outcome of the test (positive or negative) documented. The notes state that specific exercises are documented in each note, however, none were included in any note. I did find one flow sheet attached to the back of the records that appeared to be inclusive for most dates, but it appeared to be only for stretching exercises and some cardio, but nothing further. The February 12<sup>th</sup> note, 2<sup>nd</sup> paragraph under Subjective states that \_\_\_ is taking medication, that he would not like to be referred to a medical physician, he is taking medication but he can't remember the name of the medication or who prescribed it for him, but that the medication is not causing him side effects. The notes then go on to state that he wants to be referred back to the doctor that prescribed him the medication because he is experiencing side effects. Under Plan, it states that "Due to time constraint, patient unable to complete medication." On February 26<sup>th</sup>, the Plan states that he used the treadmill for 0 minutes for a distance of 0 miles, etc. Each item stated 0/0, and that these exercises were completed in (and left blank with no time). On January 30<sup>th</sup>, under the Plan section, the next to the last paragraph states that the patient experienced "no decrease in symptoms as a result of today's treatment" and then went on to further state "\_\_\_ reported his pain was a 4 on a scale of 0-10. As you can see, this is an improvement when comparing this to his initial pain rating (8) when the patient came in today." The February 6<sup>th</sup> note states that "\_\_\_ stated that he is able to cut the lawn, play basketball, take care of the garden, dance but with difficulty because of the pain caused by the injury. Nonetheless, he stated that due to the injury he can not cut the lawn, play basketball, dance."

These account for only a few of the documentary difficulties that were found. These inconsistencies and the lack of documentation of the particular exercises that were done are greatly disturbing. There were just too many problems with these records. Additionally, passive therapies are indicated in the acute phase of therapy for a period of 6 weeks. Any use beyond that time period would require pre-authorization. I see no evidence of pre-authorization for extended use of these modalities. Based on the evidence presented, I would have to recommend denial of all charges. Documentation of medical necessity has not been met.

\_\_\_ 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 \_\_\_, 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,