

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION:

SOAH DOCKET NO. 453-04-5712.M5

MDR Tracking Number: M5-04-1401-01

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 01-12-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. 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 was the only issue** to be resolved. The therapeutic exercises were found to be medically necessary. The electrical stimulation, massage therapy and ultrasound therapy were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for therapeutic exercises, electrical stimulation, massage therapy and ultrasound therapy.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay 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 to dates of service 11-07-03 through 11-12-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 4th day of March 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M5-04-1401-01
IRO Certificate Number: 5259

March 2, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. 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

100 pages of medical records were reviewed. 55-year-old male status post fall to left elbow on ___. MRI on 7/24/03 had large effusion and synovitis of the olecranon bursa. 9/8/03 excision of bursa. Received physical therapies from 5/15/03 until the surgery and more than 20 visits post-operatively.

REQUESTED SERVICE (S)

Electrical stimulation, massage therapy, ultrasound therapy, therapeutic exercise from 11/7/03 through 11/12/03.

DECISION

Approve therapeutic exercises. Uphold prior denial for all other items.

RATIONALE/BASIS FOR DECISION

Referencing the standard PM&R text, editor Randall L. Braddom, 1996, therapeutic modalities are considered adjunctive rather than primary curative interventions; they should only be used in the acute phase of rehabilitation. On the disputed dates, this patient could have performed his own passive therapeutic modalities. On the other hand, therapeutic exercise with a goal of establishing a home program is appropriate.