

MDR Tracking Number: M5-04-1984-01

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 3-4-04.

The IRO reviewed office visits, massage therapy, aquatic therapy, and whirlpool on 12-3-03 to 12-17-03.

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 agreed with the previous determination that the aquatic therapy on 12-3-03 to 12-17-03 was not medically necessary. The IRO concluded that the office visits, massage therapy, and whirlpool on 12-3-03 to 12-17-03 were 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 6-8-04, 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.

Code 99080-73 was billed on 12-3-03 and denied as "V". The TWCC-73 is a required report and is not subject to an IRO review. Per Rule 129.5 (e), The Work Status Report filed as required shall be provided to the employee at the time of the examination and shall be sent to the carrier not later than the end of the second working day after the exam date. Per the requestor's TWCC-73, the exam date was 6-24-03 and the report was sent to the carrier on 12-3-03; therefore, 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 12-3-03 to 12-17-03 in this dispute.

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

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

May 18, 2004

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

Re: Medical Dispute Resolution
MDR #: M5-04-1984-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear Ms. Lopez:

___ 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.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's
Letter of medical necessity 04/16/04; initial evaluation 07/02/02; interim report 12/03/03.
Clinical notes and testing 12/04/03 thru 12/18/03.
MRI ankle 02/28/03

Clinical History:

This patient initially injured her left knee on ____ while at work. She also twisted her left ankle at this time. She underwent an MRI on February 28, 2003, which showed a small joint effusion. She completed a rehab program and was released. On December 3, 2003, she reported exacerbation of her injuries possibly due to the cold weather and denied a different accident or injury.

Disputed Services:

Office visits, massage therapy, aquatic therapy and whirlpool during the period of 12/03/03 through 12/17/03.

Decision:

The reviewer partially disagrees with the determination of the insurance carrier. The office visits, massage therapy and whirlpool were medically necessary from 12/03/03 through 12/17/03. Aquatic therapy was not medically necessary during that same period in dispute.

Rationale:

After reviewing the documents, it is reasonable to have provided care for this claimant because of the exacerbation of her previous condition. She denies another accident, and the documentation does not show evidence to the contrary. As cited by the treating doctor, recognized guidelines categorize her condition as an acute exacerbation, and the Labor Code states that injured employees are entitled to medical treatment for exacerbation. However, the recommendation of aquatic therapy in conjunction with the whirlpool and massage is excessive.

By the patient's report, there was not an injury or accident, which would have caused more damage, but just an acute flare up, which could be dealt with quickly by using palliative therapies and having the patient do at home range of motion exercises. Supervised and complicated exercises such as aquatic therapy are not warranted for a simple acute ankle sprain, especially when there is no documentation showing significant structural or biomechanical damage. This opinion is further justified by the fact that therapies done do not seem to have benefited the patient when there subjective reports actually show deterioration in her condition.

The CPT codes 99214, 99213, 99080-73, 97124, and 97022-22 between the dates of December 3rd and December 17, 2003 are reasonable and necessary. I do not believe CPT code 97113 between the same dates is reasonable and necessary.

Sincerely,