

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: 453-04-7666.M5

MDR Tracking Number: M5-04-2029-01

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 2-26-04.

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 work hardening program and the functional capacity evaluation from 3/19/03 through 4/22/03 was 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 3/19/03 through 4/22/03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 10th day of June 2004.

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

June 8, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION
Corrected Letter**

MDR Tracking #: M5-04-2029-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ___ external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement.

The ___ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 47 year-old female who sustained a work related injury on ____. The patient reported that while at work she was mopping the floor when she slipped and fell, landing on her right side. On 12/20/02 the patient was evaluated and given the diagnoses of thoracic, lumbosacral, right knee and right shoulder sprain/strain. On 12/28/02 the patient underwent an MRI of the right shoulder, right knee, and lumbar spine. This MRI was reported to have shown a contusion of the lateral tibial plateau with moderated intracapsular swelling, grade II tear of the posterior horn and the medial meniscus, flattening of the lumbar lordosis, mild degenerative disc disease of the L4-5 and a posterior bulging of the L5 annulus by 4-5mm. A CT scan of the right knee was performed on 1/28/03 that indicated subchondral cyst changes involving lateral tibial plateau with associated changes compatible with a moderated degenerative osteoarthritis involving the lateral compartment of the knee. Moderated joint effusion with Baker's cyst, lateral position of the patella, and subcutaneous soft tissue changes involving the anterior aspect of the knee at the level of the tibial tubercle. The patient underwent an injection of the medial lateral bursa of the right knee on 2/5/03. The patient was treated with conservative care progressing into a work hardening/conditioning program.

Requested Services

Work hardening program, FCE, from 3/19/03-4/22/03

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. MRI reports 12/28/02
2. Progress notes 12/20/02 - -4/25/03

Documents Submitted by Respondent:

1. Review of Medical History & Physical Exam 6/26/03
2. WC/WH notes 2/24/03 – 3/18/03
3. OP note 2/5/03

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is upheld.

Rationale/Basis for Decision

The ___ chiropractor reviewer noted that this case concerns a 47 year-old female who sustained a work related injury to her back, right knee and right shoulder on ____. The ___ chiropractor reviewer also noted that the patient participated in a work hardening program from 3/19/03 through 4/4/03. The ___ chiropractor reviewer indicated that the patient's pain rating was documented as a 0-2/10 and remained a 0-2/10 throughout the work hardening program. The ___ chiropractor reviewer explained that this patient was employed in a light duty position. The ___ chiropractor reviewer noted that per an FCE performed during this period, the patient was capable of performing a light duty job. The ___ chiropractor reviewer explained that a work

hardening program 70 days from the onset of an injury is a short period of time for conservative treatment before beginning 8 weeks of such an extensive program.

The ___ chiropractor reviewer also explained that the injuries that this patient sustained were not extensive enough to require a work hardening program. Therefore, the ___ chiropractor consultant concluded that the work hardening program, and FCE from 3/19/03-4/22/03 were not medically necessary to treat this patient's condition.

Sincerely,