

MDR Tracking Number: M5-05-0318-01

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 09-22-04.

The Requestor submitted an updated table of disputed services on 05-16-05 and will be used for this review.

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 office visits, manual therapy technique, ultrasound, therapeutic procedures, electrical stimulation, work hardening and work hardening each additional hour 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 from 09-03-03 to 01-30-04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 8th day of June 2005.

Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO decision

November 30, 2004

Texas Workers Compensation Commission  
MS48  
7551 Metro Center Drive, Suite 100  
Austin, Texas 78744-1609

**NOTICE OF INDEPENDENT REVIEW DECISION  
Amended Determination 6/6/05**

**RE: MDR Tracking #: M5-05-0318-01  
TWCC #: \_\_\_\_  
Injured Employee: \_\_\_\_  
Requestor: Real Health Care  
Respondent: National American Insurance  
MAXIMUS Case #: TW04-0479**

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS 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 MAXIMUS for independent review in accordance with this Rule.

MAXIMUS 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 MAXIMUS 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 MAXIMUS 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 MAXIMUS for independent review. In addition, the MAXIMUS chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 34 year-old male who sustained a work related injury on \_\_\_\_\_. The patient reported that while at work he injured his right patellar tendon. The patient began physical therapy and joint mobilization techniques on 7/16/03 through 9/3/03. A MRI of the right knee performed on 8/12/03 indicated a small joint effusion. The patient continued treatment and on 1/7/04 the patient underwent steroid injection. The patient continued therapeutic exercises and was recommended for a work hardening/conditioning program. On 1/27/04 the patient started a work hardening program. The patient was also treated in a Multi-Disciplinary Chronic Pain Program and subsequently discharged to a home exercise program.

## Requested Services

Office visit, manual therapy technique, ultrasound, therapeutic procedures, office visits (99214), electrical stimulation, work hardening, and work hardening each additional hour from 9/3/03 through 1/30/04.

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

### *Documents Submitted by Requestor:*

1. Position Letter 10/26/04
2. MRI report 8/12/03
3. FCE 8/14/03, 2/27/04
4. Daily SOAP notes 9/3/03 1/21/04
5. Consultation 1/7/04
6. Assessment/Physical Examination 1/29/04

### *Documents Submitted by Respondent:*

1. Request for Reconsideration 8/6/04

## Decision

The Carrier's denial of authorization for the requested services is upheld.

## Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that this case concerns a 34 year-old male who sustained a work related injury to his right patellar tendon on \_\_\_\_\_. The MAXIMUS chiropractor reviewer indicated that the after a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual procedures may no longer be appropriate and alternative care should be considered. (Haldeman, S; Chapman-Smith, D; Petersen, D: Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen Publishers, Inc.). The MAXIMUS chiropractor reviewer explained that for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. The MAXIMUS chiropractor reviewer indicated that there should be an increase in the active regimen of care, a decrease in the passive regimen of care and a decline in the frequency of care. The MAXIMUS chiropractor reviewer also indicated that home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency, and then supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. The MAXIMUS chiropractor reviewer further indicated that evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment.

The MAXIMUS chiropractor reviewer explained that if treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. The MAXIMUS chiropractor reviewer also explained that there was no documentation of objective or functional improvement in this patient's condition and no evidence of a change of treatment plan to justify additional treatment in the absence of positive response to prior treatment. The MAXIMUS chiropractor reviewer noted that there was no evidence to support the need for monitored

therapy. The MAXIMUS chiropractor reviewer indicated that physical medicine treatment requires ongoing assessment of a patient's response to prior treatment and modification of treatment activities to effect additional gains in function. The MAXIMUS chiropractor reviewer explained that continuation of an unchanging treatment plan, performance of activities that can be performed as a home exercise program and/or modalities that provide the same effects as those that can be self applied are not indicated. The MAXIMUS chiropractor reviewer further explained that the care rendered to this patient failed to meet statutory requirements since the patient did not obtain material relief from his symptoms, his recovery was not promoted, and there was not an enhancement of his ability to return to or retain employment. Therefore, the MAXIMUS chiropractor consultant concluded that the office visit, manual therapy technique, ultrasound, therapeutic procedures, office visits (99214), electrical stimulation, work hardening, and work hardening each additional hour from 9/3/03 through 1/30/04 were not medically necessary to treat this patient's condition.

Sincerely,  
**MAXIMUS**

Elizabeth McDonald  
State Appeals Department