

MDR Tracking Number: M5-05-0357-01

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 9-27-04.

The IRO reviewed therapeutic exercises 97110.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO Decision.

ORDER

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 outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- 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 7-21-04 through 7-26-04 as outlined above 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 30th day of December 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

December 29, 2004

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

**NOTICE OF INDEPENDENT REVIEW DECISION
Corrected Letter**

**RE: MDR Tracking #: M5-05-0357-01
TWCC #:
Injured Employee:
Requestor: Medpro Clinics
Respondent: American Protection Ins. Co. c/o Harris & Harris
MAXIMUS Case #: TW04-0488**

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 54 year-old male who sustained a work related injury on _____. The patient reported that while at work he tripped over a pallet and injured his right knee when he fell. Initially the patient was treated with physical therapy. On 8/2/02 the patient underwent an MRI of the right knee that was reported to have shown a tear of the posterior horn of the medial meniscus and a bony contusion within the distal femur. The patient subsequently underwent EUA followed by further physical therapy. An MRI of the right knee performed on 10/18/02 was reported to have shown a tear in the posterior compartment of the medial meniscus, a tear in the anterior cruciate ligament, and fluid in the right knee joint. On 11/5/02 the patient underwent

a right anterior cruciate reconstruction using allograft, bone-tendon-bone, and a partial medial meniscectomy followed by postoperative therapy. The patient presented to the treating doctor on 1/13/04 for treatment of his work related injuries due to continued pain. The diagnoses for this patient were derangement of posterior horn of medial meniscus, closed fracture of proximal tibia, and knee pain. The patient underwent another MRI of the right knee on 5/27/04 that showed evidence of a prior ACL replacement with tibial and femoral screws. The patient was referred to an orthopedic surgeon and treatment recommended consisted of oral medications and exercises. The patient returned to his treating doctor where he began the prescribed exercises.

Requested Services

Physical Medicine Services 97110 from 7/21/04 through 7/26/04.

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

Documents Submitted by Requestor:

1. MRI report 5/27/04
2. Patient History 5/20/04 – 8/9/04
3. Orthopedic New Consult 6/9/04
4. Orthopedic Follow Up note 8/16/04
5. Medical Evaluation 12/7/04

Documents Submitted by Respondent:

1. Respondents response to IRO 11/9/04
2. Medical Records Review 3/26/03

Decision

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

Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that this case concerns a 54 year-old male who sustained a work related injury to his right knee on _____. The MAXIMUS chiropractor reviewer further noted that the patient underwent right knee surgery followed by physical therapy. The MAXIMUS chiropractor reviewer further noted that following the surgery and postoperative therapy, the patient changed treating doctors and continued with treatment consisting of oral medications and exercises. The MAXIMUS chiropractor reviewer indicated that the patient had a long history of treatment for his condition. The MAXIMUS chiropractor reviewer explained that the treatment notes indicated that the patient showed slow progress. The MAXIMUS chiropractor reviewer also explained that although the patient showed slow progress, the patient's condition did improve with treatment.

Therefore, the MAXIMUS chiropractor consultant concluded that the physical medicine services 97110 from 7/21/04 through 7/26/04 were medically necessary to treat this patient's condition.

Sincerely,
MAXIMUS

Elizabeth McDonald
State Appeals Department