

THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-4349.M5

MDR Tracking Number: M5-05-0542-01

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 10-15-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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

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 IRO determined that office visits and aquatic therapy from 10-17-03 through 11-14-03 **were** medically necessary. The IRO determined that office visits, aquatic therapy, ultrasound, electrical stimulation and physical education services-group setting from 11-17-03 through 12-16-03 **were not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 Medicare program reimbursement methodologies effective 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 10-17-03 through 11-14-03 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 Findings and Decision and Order are hereby issued this 19th day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO decision

January 7, 2005

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

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-05-0542-01
TWCC #:
Injured Employee:
Requestor: East Texas Chiropractic
Respondent: Deep East Texas Self Ins.
MAXIMUS Case #: TW04-0502

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 female who sustained a work related injury on _____. The patient reported that while at work she slipped and fell, tearing the meniscus in her right knee. The patient reportedly underwent an MRI of the right knee that revealed focus of signal alteration in the medial meniscus, which appeared to extend to the tibial surface, suspicious for meniscal tear, effusion, and subcutaneous fluid collection likely representing a hematoma. Treatment for this patient's condition has included physical therapy, medications, aquatic therapy, ultrasound, electrical stimulation and physical education services. The treating diagnosis for this patient includes sprain lateral coll., ligament.

Requested Services

Office visit, aquatic therapy, ultrasound, electrical stimulation, and physical education services-group setting from 10/17/03 – 12/16/03.

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

Documents Submitted by Requestor:

1. Position Statement 12/3/04
2. S.O.A.P notes 10/17/03 – 12/16/03

Documents Submitted by Respondent:

1. No Documents Submitted

Decision

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

Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that this case concerns a female who sustained a work related injury to her right knee on _____. The MAXIMUS chiropractor reviewer indicated that the patient had a very low level of pain that never improved with ongoing therapy. The MAXIMUS chiropractor reviewer noted that the patient was able to walk a bit farther at the end of care. However, the MAXIMUS chiropractor reviewer indicated that the patient had no subjective relief or documented increase in range of motion. The MAXIMUS chiropractor reviewer noted that the patient underwent an designated doctor evaluation and was found to be at maximum medical improvement on 11/16/03. The MAXIMUS chiropractor reviewer explained that at that time, no further improvement in this patient's condition was expected. The MAXIMUS chiropractor reviewer also explained that after 11/16/03 the patient should have been released to a home based exercise program. Therefore, the MAXIMUS chiropractor consultant concluded that the office visits and aquatic therapy, ultrasound, electrical stimulation, and physical education services-group setting from 10/17/03 through 11/14/03 were medically necessary to treat this patient's condition. However, the MAXIMUS chiropractor consultant further concluded that the aquatic therapy, office visits, ultrasound, electrical stimulation, and physical education services-group setting from 11/17/03 through 12/16/03 were not medically necessary to treat this patient's condition.

Sincerely,
MAXIMUS

Lisa K. Maguire, Esq.
State Appeals Department