

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-6735.M5

MDR Tracking Number: M5-05-0682-01

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. This dispute was received on 10-28-04.

The IRO reviewed therapeutic exercises, ultrasound, paraffin bath, manual therapy techniques, FCE, and occupational therapy re-evaluation rendered from 1-2-04 to 3-17-04 that were denied based upon “U”.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

The IRO concluded that therapeutic exercises, ultrasound, paraffin bath, manual therapy techniques, FCE, and occupational therapy re-evaluation rendered from 1-2-04 through 1-15-04 were medically necessary. The IRO concluded that all other services rendered were not medically necessary.

On this basis, the total amount recommended for reimbursement (\$549.24) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. 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 12-17-04, the respondent forwarded a letter to the Medical Review Division that indicated that the remaining services that were denied based upon fee issues were paid; therefore, a fee dispute does not exist.

This Decision is hereby issued this 28th day of April 2005.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

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 Decision is applicable for dates of service 1-2-04 through 1-15-04 in this dispute.

This Order is hereby issued this 28th day of April 2005.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

January 5, 2005

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

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-05-0682-01
TWCC #:
Injured Employee:
Requestor: Neuromuscular Institute of Texas – P.A.
Respondent: Ace USA/OR c/o Old Republic Ins. C/o ESIS
MAXIMUS Case #: TW04-0506

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 injured her left thumb when she hyperextended it when it became caught in a bundle of cloth. The patient presented to the treating doctor on 1/21/03. An MRI of the left hand/thumb performed on 1/23/03 revealed a small accumulation of fluid in the first metacarpophalangeal joint and the interphalangeal joint of the thumb with some edematization of the structures around the first metacarpophalangeal joint. In October 2003 the patient underwent left thumb surgery followed by postoperative therapy. Further treatment for this patient's condition included therapeutic exercises, ultrasound, paraffin bath, manual therapy techniques, and occupational therapy.

Requested Services

Therapeutic exercises, ultrasound, paraffin bath, manual therapy techniques, FCE and occupational therapy reevaluation on 1/2/04 through 3/17/04.

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

Documents Submitted by Requestor:

1. Initial Consultation and Progress Notes 1/21/03 – 3/22/04
2. Office Visit, Injection Notes 4/3/03 – 2/26/04
3. OTR Initial Evaluation and Treatment Logs 2/17/03 – 3/11/04
4. MRI report 1/23/03

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 left thumb on _____. The MAXIMUS chiropractor reviewer indicated that the patient underwent surgery on 10/28/03. The MAXIMUS chiropractor reviewer explained that 8-10 weeks of postoperative care is recommended unless there is documented proof that the

patient is improving with care. The MAXIMUS chiropractor reviewer indicated that therapy no longer is indicated when a patient reaches a plateau without improvement. The MAXIMUS chiropractor reviewer noted that this patient reported a 30% subjective pain decrease during the initial 8-10 weeks of postoperative care. The MAXIMUS chiropractor reviewer also noted that after the initial 8-10 weeks the patient failed to show any improvement. The MAXIMUS chiropractor reviewer indicated that the patient was deemed to be at maximum medical improvement on 2/23/04. The MAXIMUS chiropractor reviewer explained that the patient did not improve with the treatment after 1/15/04. Therefore, the MAXIMUS chiropractor consultant concluded that the therapeutic exercises, ultrasound, paraffin bath, manual therapy techniques, FCE and occupational therapy reevaluation from 1/2/04 through 1/15/04 were medically necessary to treat this patient's condition. However, the MAXIMUS chiropractor consultant further concluded that the therapeutic exercises, ultrasound, paraffin bath, manual therapy techniques, FCE and occupational therapy reevaluation from 1/16/04 through 3/17/04 were not medically necessary to treat this patient's condition.

Sincerely,
MAXIMUS

Elizabeth McDonald
State Appeals Department