

MDR Tracking Number: M5-05-1111-01

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 12-08-04.

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.

The Level II office visit, manual therapy technique, therapeutic exercises, neuromuscular reeducation from 12-12-03 through 3-11-04 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 1-28-05 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge).

Neither the carrier nor the requestor provided EOB's for dates of service for CPT code 99212 on 1-16-04, 1-20-04, 1-21-04, 1-27-04, 1-28-04, 1-30-04, 2-2-04, 2-4-04, 2-6-04, 2-9-04, 2-11-04 and 2-13-04. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of \$544.92 (\$45.41 x 12).**

Neither the carrier nor the requestor provided EOB's for dates of service for CPT code 97140 on 1-16-04, 1-20-04, 1-21-04, 1-22-04, 1-27-04, 1-28-04, 1-30-04, 2-2-04, 2-4-04, 2-6-04, 2-9-04, 2-11-04 and 2-13-04 (2 units on each day). The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of \$881.40. (\$33.90 x 13 x 2 units on each day).**

Neither the carrier nor the requestor provided EOB's for dates of service for CPT code 97112 on 1-16-04, 1-20-04, 1-21-04, 1-22-04, 1-27-04, 1-28-04, 1-30-04, 2-2-04, 2-4-04, 2-6-04, 2-9-04, 2-11-04 and 2-13-04. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of \$476.97 (36.69 x 13 DOS).**

Neither the carrier nor the requestor provided EOB's for dates of service for CPT code 97110 on 1-16-04, 1-20-04, 1-21-04, 1-22-04, 1-27-04, 1-28-04, 1-30-04, 2-2-04, 2-4-04, 2-6-04, 2-9-04, 2-11-04 and

2-13-04. Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Reimbursement not recommended.

This Finding and Decision is hereby issued this 2nd day of March 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service 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 Decision is applicable for dates of service 12-12-03 through 3-11-04 as outlined above in this dispute.

This Order is hereby issued this 2nd day of March 2005.

Margaret Ojeda, Supervisor
Medical Dispute Resolution
Medical Review Division

MO:da

Enclosure: IRO decision

February 16, 2005

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

**NOTICE OF INDEPENDENT REVIEW DECISION
Amended Letter 2/22/05**

**RE: MDR Tracking #: M5-05-1111-01
TWCC #:
Injured Employee:
Requestor: Nestor Martinez & Pain & Recovery Clinic of N. Houston
Respondent: ACE Insurance
MAXIMUS Case #: TW05-0002**

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 in a store, the store was robbed. The patient was ordered to run away and when she did so, she slipped and twisted her right knee. An MRI of the right knee performed on 12/2/03 was reported to have shown sizable joint effusion, no tear of the quadriceps and infrapatellar tendons, diffuse thickening and increased signal intensity with surrounding lymphedema along the entire MCL, normal anterior and posterior cruciate ligaments, mild hypertrophic degenerative joint disease of the femoropatellar joint with degenerative Grade I chondromalacia along the joint margin of the patella, mild to moderate hypertrophic DJD of the medial and lateral compartments, intact lateral meniscus, and mild to moderate degenerative and myxoid changes. The patient was evaluated by an orthopedic surgeon on 1/6/04, 1/21/04, 4/28/04 and 6/24/04 and was recommended for an arthroscopic evaluation of the right knee and a partial medial meniscectomy on all occasions. On 7/21/04 the patient underwent right knee surgery. Before the surgery was performed the patient had been treated with patient continued with rehabilitative treatment.

Requested Services

Levell II office visit, manual therapy technique, therapeutic exercises, neuromuscular reeducation from 12/12/03 through 3/11/04.

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

Documents Submitted by Requestor:

1. Request for Reconsideration 8/3/04
2. History and Physical 11/12/03
3. Initial Medical Report 11/4/03
4. Subsequent Medical Report 11/10/03
5. Psychiatric Evaluation 11/17/03
6. MRI report 12/2/03
7. Daily Progress Notes 12/17/03 – 3/11/04
8. Operative Report 7/21/04

Documents Submitted by Respondent:

1. No Documents Submitted

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 female who sustained a work related injury to her right knee on _____. The MAXIMUS chiropractor reviewer also noted that on 7/21/04 the patient underwent right knee surgery. The MAXIMUS chiropractor reviewer further noted that before surgery, the patient had been treated with rehabilitative treatment. The MAXIMUS chiropractor reviewer indicated that the patient was treated with conservative measures in an effort to prevent surgery. The MAXIMUS chiropractor reviewer also explained that although the treatment did not prevent surgery, it was reasonable and medically necessary to treat her condition. Therefore, the MAXIMUS chiropractor consultant concluded that the Levell II office visit, manual therapy technique, therapeutic exercises, and neuromuscular reeducation from 12/12/03 through 3/11/04 were medically necessary to treat this patient's condition.

Sincerely,

MAXIMUS

Elizabeth McDonald
State Appeals Department