MDR Tracking Number: M5-05-1442-01

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, 133.307 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 01-14-05.

Per Rule 133.308(e)(1) date of service 01-13-04 was not timely filed and will not be a part of this review.

The IRO reviewed office visits, manual therapy technique, neuromuscular re-education, therapeutic exercises, prolonged physical services, electrical stimulation-unattended rendered from 01-20-04 through 07-09-04 that were denied based upon "V".

The IRO determined that the office visits on 01-20-04 and 02-20-04 as well as three units of therapeutic exercises per each treatment session from 05-10-04 through 07-09-04 **were** medically necessary. The IRO determined that all therapy services provided from 01-20-04 through 04-20-04 and all services provided from 05-10-04 through 07-09-04 **were not** medically necessary (with the exception of those previously listed). The amount of reimbursement due from the carrier for the medical necessity issues equals **$261.80.**

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. 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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** 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 02-10-05, 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.

CPT codes 95851, 99080-73, 95831, 97140, 99213, 97110 and 97112 dates of service 02-10-04, 05-13-04, 05-17-04, 05-20-04, 05-21-04, 05-24-04, 05-26-04, 05-28-04, 06-01-04, 06-02-04, 06-23-04, 06-29-04, 06-30-04, 07-07-04, 07-08-04 and 07-09-04 denied with various codes including "G" (unbundling), "N" (not appropriately documented) and "F" (Fee guideline MAR reduction), "F/TD" (work status report was not properly completed or was submitted in excess of the filing requirements) as well as no EOBs being submitted for code 97110 date of service 05-13-04 and code 97112 date of service 06-29-04. Per Rule 133.307(e)(2)(A) "each copy of the request shall be legible, include only a single copy of each document, and shall include: a copy of all medical bill(s) as originally submitted to the carrier for reconsideration in accordance with

133.304". The requestor did not submit copies of medical bills for review. No reimbursement is recommended.

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 for dates of service 01-20-04,02-20-04, 05-20-04, 05-28-04 and 06-01-04 totaling $261.80 in accordance with the 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 Findings and Decision and Order are hereby issued this 10th day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

7600 Chevy Chase, Suite 400
Austin, Texas 78752
Phone: (512) 371-8100
Fax: (800) 580-3123

NOTICE OF INDEPENDENT REVIEW DECISION – AMENDED DECISION

Original Date: March 23, 2005

Amend Date: March 29, 2005

To The Attention Of:

TWCC
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-16091

RE: Injured Worker:
MDR Tracking #: M5-05-1442-01
IRO Certificate #: 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a chiropractic reviewer (who is board certified in chiropractic) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Records reviewed consisted of 43 pages of treatment notes from Cody Doyle, DC
- 14 pages of explanation of benefits
- 18 pages of daily notes from orthopedist Juan Capello, MD
- 1 operative report from Dr. Capello

Submitted by Respondent:

- Records received from Texas Mutual consisted of 24 pages of treatment queries
- Designated Doctor examination by Gerald Peter Foox, MD
- 90 pages of Dr. Doyle's treatment notes and office notes from R.W. Covington, MD
- 16 pages of office notes by Dr. Capello

Clinical History

The patient sustained a work related injury on ___ while employed by Brookhaven Boys Ranch as a guard. Records indicate ___ was attempting to restrain an individual when she fell on her left knee. She was initially seen by R. Covington, MD who prescribed medications, a brace, and physical therapy. MRI of the left knee performed on January 24, 2003 showed the lateral meniscus had been surgically removed and no tears were found of the medial meniscus or cruciate ligaments.

On April 30, 2003 she was evaluated by Cody Doyle, DC. He initiated physical therapy consisting of 4 units of a therapeutic exercises, joint mobilization and cryotherapy. On June 15, 2003 the claimant underwent a medial meniscectomy, patella chondroplasty, and lateral release. Post operative physical therapy was initiated on July 1, 2003 and continued through April 2004. On April 21, 2004 the claimant underwent a modified Maquet procedure and lateral release by Dr. Capello. Postoperative physical therapy was started on May 10, 2004 and was completed on July 29, 2004.

Requested Service(s)
99213 & 99214 OV, 97140 manual therapy technique, 97112 neuromuscular re-education, 97110 therapeutic exercises, 99354 prolonged physical srvc, G0283 elec stimulation unattended for dates of service January 20, 2004 thru July 9, 2004.

Decision

All therapy services provided by the treating doctor from January 20, 2004 through April 20, 2004 were not medically reasonable or necessary. The 99213 office visits on January 20, 2004 and February 20, 2004 are necessary for follow up, referral, monitoring, and/or case closure. All services provided by the treating doctor from May 10, 2004 through July 9, 2004 were not medically reasonable or necessary, except three (3) units of 97110 therapeutic exercises per each treatment session.

Rationale/Basis for Decision

The therapy services provided by the treating doctor from January 20, 2004 through April 20, 2004 were not medically reasonable or necessary. The patient received an inordinate amount of physical therapy following the June 13, 2003 left medial meniscectomy, patellar chondroplasty and lateral release. Six months of therapy is 90 days above the normal rehabilitation time frame for this type of procedure. In reviewing Dr. Capello's notes he indicates at 90 days post op "she is very behind on her function and strength. She is the only one who can make her to have a good outcome. On examination she cannot do a McMurray's. Lachman, crepitus and effusion are negative. Anterior / posterior drawer signs and apprehension are negative. There is atrophy on the left. Medial collateral ligament (MCL), lateral collateral ligament (LCL), color and temperature are normal. Active range of motion, 0 degrees in extension and 90 degrees flexion. Strength is improved slightly if any." Three months later, January 27, 2004, his daily note is the same with a 5-degree increase in left knee flexion. The claimant was apparently stabilized prior to January 1, 2004. Further, during this period Dr. Doyle documents hamstring and quadriceps muscle strength at 5/5 with +1 hypertonicity of the same. This does not change for 3 months. A February 10, 2004 range of motion test of the left knee finds normal knee flexion and extension. Strength test indicated deficits of 21 % on knee flexion (laterally rotated), 12 % deficit (medially rotated) and 24 % deficit on knee extension. It is normal to have strength deficits following invasive procedures, but after 6 months of rehabilitation the patient would be expected to have plateaued with active therapy. Review shows the patient had stabilized and continuing the same treatment protocol was not providing a curative or rehabilitative effect. What is medically necessary for the treating doctor for this period, January 2004 – April 2004, is monthly office visits for follow up, referral, monitoring, and/or case closure. E & M 99213 is acceptable on January 20, 2004 and February 20, 2004.

Following the April 21, 2004 modified Maquet procedure and lateral release; postoperative physical therapy was initiated on May 10/11, 2004. It consisted of 4 units of therapeutic exercise and 1 unit of manual therapy. On subsequent visits EMS and neuromuscular re-education were added to the protocol. Reasonable postoperative physical therapy would be for 8 weeks consisting of 3 units of therapeutic exercise per each treatment session. An end date would be July 11, 2005. In adhering to Medicare guidelines an active treatment session is defined as 45 minutes of active therapy or 3 units. An active treatment session may be 25% passive in nature, but would be factored against the 3 units of active care. Neuromuscular re-education is not an appropriate procedure for this injury. No neurological deficits or neurovascular compromise was documented. This injury and subsequent rehabilitation did not require neuromuscular re-education of movement, balance, coordination, kinesthetic sense, posture or proprioception. Manuel therapy was not necessary as the claimant was immediately placed into active therapy.

Office visits coded to 99213 & 99214 on a daily basis was not medically reasonable or necessary. Postoperative rehabilitation does not require daily office visits to document incremental changes. The daily rehabilitation history does not require an expanded history or examination.

Resources

1. Low Back Pain, 5th edition, James Cox, DC.
2. Orthopedic Rehabilitation, Brent Brotzman, MD
3. Physical/Occupational Therapy and Rehabilitation Care Manual, M. Bischel, MD
4. Chiropractic Management of Spine Related Disorders, Meridel I. Gatterman, DC
5. Sports Medicine, Steven Roy, MD
6. Neurology and Neurosurgery Illustrated, Lindsay, Boone and Callander
7. The Medical Disability Advisor, Presley Reed, MD
8. Official Disability Guidelines, Work Loss Data Institute
9. Peripheral Entrapment Neuropathies, Harvey Kopell, MD and W. Thompson, MD
10. The Adult Spine, John Frymoyer, MD
11. Whiplash Injuries, CAD, Second ed. S. Foreman and Arthur C. Croft

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 29th day of March 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder