



Texas Department of Insurance, Division of Workers' Compensation
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

PREVAILING PARTY DETERMINATION

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier

Requestor's Name and Address:

David Rabbani DC
7447 Harwin Suite 190
Houston TX 77036

MDR Tracking No.: M5-05-3045-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

c/o Harris & Harris Box 42

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The disputed dates of service 12-17-03 through 12-26-03 are untimely and ineligible for review per TWCC Rule 133.308(e)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute.

Consistent with the requirements in Rule 133.308, the Division has reviewed the IRO decision and determined:

- The requestor is the prevailing party.
- The respondent is the prevailing party.

PART III: ADDITIONAL INSTRUCTIONS

The parties are instructed to review the IRO decision and take appropriate action. For any services that may have been found to be medically necessary, the insurance carrier is instructed to process those services through their bill review and payment processes, including issuing any additional amounts due consistent with the established fee guidelines. If the requestor was the prevailing party, the carrier must refund the amount of the IRO fee to the requestor within 30 days of receipt of this order.

Issued by:

9-8-05

Authorized Signature

Typed Name

Date

August 30, 2005

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

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-05-3045-01
TWCC #:
Injured Employee:
Requestor: Dr. David Rabbani
Respondent: /Health Administration Services
MAXIMUS Case #: TW05-0163

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 male who sustained a work related injury on _____. The patient reports that while mopping a floor as a custodian, he fell injuring his right hand and wrist. Diagnoses have included synovitis, lateral carpus arthropathy, a degenerative tear, mild spinal stenosis and lumbar radiculopathy. Treatment has included therapeutic exercise, electrical stimulation, massage therapy, ultrasound, and office visits from 12/29/03-2/16/04

Requested Services

Therapeutic exercise – 97110, electrical stimulation – G0283, massage therapy – 97124, ultrasound – 97035, and office visits – 99214 from 12/29/03-2/16/04

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

Documents Submitted by Requestor:

1. Letters of medical necessity – 10/10/03, 10/24/03, 11/7/03, 12/17/03, 1/16/04, 2/13/04, 11/23/04, 8/1/05
2. S.O.A.P. notes – 10/21/03, 11/12/03
3. Pain Diagnostics & Therapeutics records – 10/28/03
4. Radiology Reports – 11/4/03

5. Medical Records Review – .
6. Teal Clinic of Chiropractic Letters – 8/8/03, 3/18/03

Documents Submitted by Respondent:

1. First Report of Injury –
2. Requests for Reconsideration – 3/18/03, 8/8/03, 2/12/04, 2/20/04, 11/23/04
3. Medical Records Review – 2/12/04
4. Rehabilitation Records – 10/22/02-2/16/04
5. Initial Examination/Evaluation Report – 10/21/02
6. EMS Supply Order- 10/29/02
7. Radiology Reports – 10/30/02
8. Nerve Conduction and EMG Studies – 11/13/02
9. Regional Specialty Clinic Follow-up Notes – 12/4/02, 1/31/03, 2/27/03, 3/27/03, 5/13/03, 6/10/03, 7/8/03, 8/22/03, 11/17/04, 12/15/04, 3/18/05
10. Chart Notes – 11/25/02, 1/2/03, 1/10/03, 2/6/03, 4/24/03, 4/28/03, 6/5/03, 7/3/03, 8/28/03,
11. ADL / Education of Patient Notes– 1/8/03, 6/11/03, 4/25/03
12. Global Medical Examination and Findings – 1/8/03, 7/9/03
13. Operative Report – 5/27/03
14. Statements of Medical Necessity – 6/11/03, 6/25/03, 10/10/03, 10/24/03, 11/7/03, 11/17/03, 12/17/03, 1/16/04,
15. Computerized Spinal Range of Motion Exams – 6/11/03, 6/25/03, 7/9/03,
16. Function Abilities Evaluation – 8/18/03
17. Initial History and Physical Examination – 8/21/03
18. Bone & Joint Evaluations – 10/21/03, 11/12/03
19. Pain Diagnostics & Therapeutics record – 10/28/03
20. Radiology Report – 11/4/03
21. RMJ Evaluations Report of Medical Evaluation – 10/18/02, 2/19/04

Decision

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

Rationale/Basis for Decision

MAXIMUS CHDR chiropractor consultant indicated the patient injured his low back and right wrist on ____.

MAXIMUS CHDR chiropractor consultant noted the patient underwent surgery on the right wrist on 5/27/03.

MAXIMUS CHDR chiropractor consultant explained that the patient received active and passive treatments that included EMS, exercises, massage, ultrasound and office visits from 12/29/03-2/16/04. MAXIMUS CHDR chiropractor consultant also indicated that this patient was not a candidate for additional surgery to the right wrist. MAXIMUS CHDR chiropractor consultant noted that according to the National Spine Society's guidelines for treatment of unremitting low back pain, the patient was in the tertiary phase of care (beyond 6 months after the date of injury).

MAXIMUS CHDR chiropractor consultant explained that the tertiary phase of care includes chronic pain management, pharmacological interventions, epidural blocks, selective nerve blocks, and behavioral techniques. MAXIMUS CHDR chiropractor consultant noted that the services provided to this member from 12/29/03-2/16/04 were not indicated treatment for a patient in the tertiary phase of care. MAXIMUS CHDR chiropractor consultant explained that the services provided to the patient were therefore not medically necessary for treatment of his condition. (Guidelines to Unremitting low back pain, National Spine Society, 2002.)

Therefore, the MAXIMUS physician consultant concluded that the therapeutic exercise – 97110, electrical stimulation – G0283, massage therapy – 97124, ultrasound – 97035, and office visits – 99214 from 12/29/03-2/16/04 were not medically necessary for treatment of this patient's condition.

Sincerely,
MAXIMUS

Lisa Gebbie, MS, RN
State Appeals Department