

**SOAH DOCKET NO. 453-03-3810.M5  
MR NO. M5-03-1659-01**

**MEDICAL ASSOCIATES,  
Petitioner**

v.

**TEXAS MUTUAL INSURANCE  
COMPANY,  
Respondent**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

**I. INTRODUCTION**

Medical Associates (Provider) has appealed a decision of the Texas Workers' Compensation Commission (TWCC) Medical Review Division (MRD), which was based on an independent review organization (IRO) review. The IRO agreed with Texas Mutual Insurance Company (Carrier) that certain medical services (Disputed Services) that the Provider furnished to \_\_\_ (Claimant) were not reasonably medically necessitated by the Claimant's compensable injury.

The total maximum allowable reimbursement (MAR) amount in controversy is \$679. The only issue is whether the Disputed Services were reasonably medically necessitated by the compensable injury. The Administrative Law Judge (ALJ) finds they were not and denies the Provider's request for reimbursement.

**II. FINDINGS OF FACT**

1. \_\_\_ (Claimant) sustained a work-related injury on \_\_\_ while his employer was \_\_\_ and its workers' compensation insurer was Texas Mutual Insurance Company (Carrier).
2. The Claimant's compensable injury was to his right wrist and hand.
3. As a result of his compensable injury, the Claimant had carpal tunnel syndrome and ulnar nerve entrapment.

4. A.J. Morris, M.D., is the Claimant's Treating Doctor and Medical Associates' (Provider's) Medical Director.
5. Between the date of his injury and January 8, 2002, the Claimant was treated by the Provider on approximately 37 occasions with physical therapy on his right hand, generally including therapeutic massage, therapeutic exercises, and the application of heat or cold.
6. On January 8, 2002, the Claimant underwent surgery (Surgery) by Dr. Walter Gracia to his right arm for ganglion cyst removal, carpal tunnel release, and ulnar nerve release necessitated by his compensable injury.
7. The Claimant needed approximately two weeks of physical therapy after surgery to increase his range of motion in his elbow due to the post-surgical immobilization of his ulnar nerve.
8. The Provider began providing post-operative physical therapy services to the Claimant on February 11, 2002, for which the Carrier reimbursed the Provider through March 17, 2002.
9. Daily use of an arm after ganglion cyst removal, carpal tunnel release, and ulnar nerve release and the passage of time effectively restores range of motion in the arm.
10. Because he received 37 physical therapy sessions prior to surgery and another month of such sessions post-surgery but prior to March 18, 2002, the Claimant should have been able without further medical services thereafter to effectively exercise, massage, and apply heat or cold when necessary to his injured right arm at home to reduce pain in it and improve its function.
11. Consistent home exercise is more effective in reducing pain and restoring function than one-on-one physical therapy sessions.
12. There is little need for post-surgery massage except to reduce scarring.
13. After a small amount of training, a person can effectively massage his own hand with his other healthy hand.
14. Movement of an injured hand more effectively improves circulation in an injured hand than a paraffin bath.
15. On March 8, 2003, the Claimant had normal range of motion and grip strength.
16. Among other services, the Provider furnished services (Disputed Services) to the Claimant with current procedural terminology (CPT) codes and maximum allowable reimbursements (MARs) as follows:

CPT CODE	SERVICE	MAR	DATES (2002)
97110	Therapeutic services	\$70	3/18, 3/21, 3/26, 3/27, 3/28
97124	Massage therapy	\$28	3/18, 3/21, 3/26, 3/27, 3/28
97010	Hot or cold pack therapy	\$11	3/21
97018	Paraffin bath therapy	\$16	3/18, 3/21, 3/26, 3/27
95851	Range of motion measurement	\$36	3/19
97750	Physical performance	\$43	3/19

17. The range of motion measurement and physical performance services were primarily to measure the Claimant's improvement due to the other Disputed Services.
18. The Provider timely sought reimbursement of the MARs, totaling \$679, from the Carrier for the Disputed Services.
19. The Carrier timely submitted explanations of benefits (EOBs) to the Provider denying it reimbursement for the Disputed Services.
20. The Provider timely filed a request for medical dispute resolution with the Texas Workers' Compensation Commission (TWCC), which referred it to an independent review organization (IRO).
21. The IRO reviewed the medical dispute and found that the Disputed Services were not reasonably medically necessitated by the Claimant's compensable injury.
22. After the IRO decision was issued, the Provider asked for a contested-case hearing by a State Office of Administrative Hearings Administrative Law Judge (ALJ) concerning the medical dispute.
23. Notice of a November 10, 2003, hearing in this case was faxed to the Provider and the Carrier on September 19, 2003.
24. On November 10, 2003, ALJ William G. Newchurch held a hearing on this case at the William P. Clements, Jr. Building, 300 W. 15<sup>th</sup> Street, 4<sup>th</sup> Floor, Austin, Texas. The hearing concluded and the record was closed that same day.
25. The Carrier appeared at the hearing through its attorney, Katie Kidd.
26. The Provider telephonically appeared at the hearing through its designated representative,

A.J. Morris, the Treating Doctor.

### **III. CONCLUSIONS OF LAW**

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a decision and order, pursuant to TEX. LABOR CODE ANN. (Labor Code) §§ 402.073(b) and 413.031(k) (West 2003) and TEX. GOV'T CODE ANN. (Gov't Code) ch. 2003 (West 2003).
2. Adequate and timely notice of the hearing was provided in accordance with Gov't Code §§ 2001.051 and 2001.052.
3. Based on the above Findings of Fact and Gov't Code § 2003.050 (a) and (b), 1 TEX. ADMIN. CODE (TAC) § 155.41(b) (2003), and 28 TAC §§ 133.308(v) and 148.21(h) (2003), the Provider has the burden of proof in this case.
4. An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed that cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. Labor Code § 408.021 (a).
5. Based on the above Findings of Fact and Conclusions of Law, the Claimant did not reasonably need the Disputed Services due to his compensable injury.
6. Based on the above Findings of Fact and Conclusions of Law, the Provider's request for reimbursement should be denied.

### **ORDER**

#### **IT IS ORDERED THAT:**

The Provider's request to be reimbursed \$679 for the Disputed Services it furnished to the Claimant is denied.

**SIGNED December 15, 2003.**

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**WILLIAM G. NEWCHURCH  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**