

**DOCKET NO. 453-04-2029.M5
TWCC NO. M5-03-3385-01**

EI PASO PHYSICAL THERAPY,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
v.	§	OF
	§	
AMERICAN HOME ASSURANCE	§	
COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

I. PROCEDURAL HISTORY

El Paso Physical Therapy (Provider) seeks reimbursement from American Home Assurance Company (Carrier) for \$2,732.00 in medical services associated with physical therapy services that Provider administered to worker's compensation claimant ___ from April 15 to June 8, 2003. An Independent Review Organization (IRO) denied reimbursement for these expenses. Provider challenged that denial.

The Administrative Law Judge convened and closed a hearing on these issues on March 13, 2004. Provider was represented by Richard Flores, P.T., and the Carrier was represented by Attorney James R. Sheffield.

II. EVIDENCE AND BASIS FOR DECISION

The documentary record in this case consisted of a set of documents from each party. Richard Flores, physical therapist, testified on behalf of Provider and Gary Polizotto, D.C., testified for the Carrier. Based on the evidence, the ALJ concludes that Provider's appeal should be denied. The particular facts, reasoning, and legal analysis in support of this decision are set forth below in the Findings of Fact and Conclusions of Law. In summary, the ALJ accepts Dr. Polizotto's testimony that these physical therapy services were not medically necessary for Claimant's right knee

rehabilitation sometime after the middle to last part of April 2003, because the therapy had plateaued in terms of strengthening and increasing range of motion. The ALJ finds that physical therapy beyond the middle of April 2003, while possibly helping Claimant with proprioceptive balance, was beyond the level of work training rehabilitation the Carrier should be expected to pay for this knee.

III. FINDINGS OF FACT

1. On ____, ____ (Claimant) suffered a compensable injury to her right knee.
2. Claimant's injury is covered by worker's compensation insurance written for Claimant's employer by American Home Assurance Company (the Carrier).
3. Claimant had an uncomplicated post operative course following a revision anterior cruciate ligament reconstruction of the right knee on January 9, 2003.
4. Provider El Paso Physical Therapy Services seeks reimbursement from the Carrier for \$2,732.00 in physical therapy services associated with treatment of Claimant's post-surgery knee rehabilitation for dates of service between April 15 to June 8, 2003.
5. The Carrier denied reimbursement of the expenses identified in Finding of Fact No. 4.
6. Provider timely requested dispute resolution by the Texas Workers' Compensation Commission Independent Review Organization (IRO).
7. The IRO issued its findings and decision on November 7, 2003, concluding that the disputed expenses should be denied, and Provider timely appealed this decision.
8. By April 8, 2003, Claimant had shown improvement including the ability to walk over 500 feet at a time, normal extension and flexion, and normal quadriceps and hamstring strength.
9. Based on Finding of Fact No. 8, and Provider's lack of documentation supporting any other type of improvement, and evidence indicating this treatment was beyond standard protocols for this type of injury, the physical therapy services provided to Claimant between April 15 and June 8, 2003, were not medically necessary to treat Claimant's knee injury.

IV. CONCLUSIONS OF LAW

1. The Texas Workers' Compensation Commission (Commission) has jurisdiction to decide the issues presented pursuant to TEX. LABOR CODE §413.031.
2. 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. §413.031 and TEX. GOV'T CODE ANN. ch. 2003.
3. The Notice of Hearing issued by the Commission conformed to the requirements of TEX. GOV'T CODE ANN. § 2001.052 in that it contained a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular section of the statutes and rules involved; and a short plain statement of the matters asserted.
4. Petitioner has the burden of proving by a preponderance of the evidence that it should prevail in this matter. TEX. LABOR CODE ANN. § 413.031.
5. The treatment provided to the Claimant was not reasonably required by the nature of Claimant's injury. TEX. LAB. CODE ANN. § 408.021.
6. Carrier is not required to reimburse Provider for the fees incurred in providing treatment to Claimant for the dates of service in question.

ORDER

IT IS THEREFORE, ORDERED that American Homes Assurance Company is not required to reimburse Provider for fees incurred in treating the Claimant between April 15 and June 8, 2003.

ISSUED March 30, 2004.

**BILL ZUKAUCKAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**