

**SOAH DOCKET NO. 453-05-3145.M5  
TWCC MR NO. M5-04-4366-01**

<b>FIRST RIO VALLEY MEDICAL, P.A.,</b>	§	
<b>Petitioner</b>	§	<b>BEFORE THE STATE OFFICE</b>
	§	
<b>V.</b>	§	<b>OF</b>
	§	
<b>VF CORPORATION, SELF-INSURED</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**DECISION AND ORDER**

First Rio Valley Medical, P.A. (Provider) appealed the decision of the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (the Commission) declining to order reimbursement of \$1, 231.64 for office visits (CPT Code 99213), massage therapy (CPT Code 97124), therapeutic exercises (CPT Code 97110), and ultrasound therapy (CPT Code 97035) provided to Claimant on six dates of service between January 27, 2004, and February 16, 2004. VF Corporation (Carrier) denied reimbursement on the basis that the treatment was not reasonable or medically necessary per peer review. The Administrative Law Judge (ALJ) finds the disputed treatment was reasonable and medically necessary. Therefore, Carrier is to reimburse Provider \$1,231.64.

**I. PROCEDURAL HISTORY**

ALJ Sharon Cloninger convened the hearing on April 27, 2005, in the William P. Clements Building, 300 West 15<sup>th</sup> Street, Fourth Floor, Austin, Texas. Robert S. Howell, D.C., appeared by telephone and represented Provider. Carrier was represented by Steven M. Tipton, attorney. The parties did not contest notice or jurisdiction, which are addressed in the Findings of Fact and Conclusions of Law below. After evidence was presented, the hearing concluded and the record closed that same day.

**II. APPLICABLE LAW**

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. The employee is specifically entitled to health care that: (1) cures or relieves the effects naturally resulting from the injury; (2) promotes

recovery; or (3) enhances the ability to return to or retain employment. TEX. LAB. CODE § 408.021(a).

### III. FINDINGS OF FACT

1. Claimant sustained a compensable work-related injury to her wrists on \_\_\_\_, while doing repetitive hand movements as a clothing labeler for V F Corporation (Carrier), which is self-insured.
2. Claimant's compensable injury was diagnosed as bilateral carpal tunnel syndrome and tenosynovitis, or inflammation of a tendon sheath.
3. First Rio Valley Medical, P.A. (Provider) began treating Claimant in February 2003.
4. On October 29, 2003, Khaim Panday, M.D., performed a nerve conduction study that showed normal median and ulnar nerves in both of Claimant's wrists. Claimant had a complex regional pain syndrome better dealt with by a pain management specialist. She was sent back to Provider to get an appointment for pain management.
5. On January 15, 2004, Claimant was seen by Shahid Rashid, M.D., board certified by the American Academy of Pain Management, who referred her to Provider for a trial of physical therapy to prevent deconditioning and to increase her physical and functional capacity.
6. Provider's treatment of Claimant included an initial visit on January 27, 2004; and ultrasound therapy for 15 minutes (CPT Code 97035), therapeutic exercises for 30 minutes (CPT Code 97110), massage therapy for 30 minutes (CPT Code 97124), and office visits (CPT Code 99213) on January 29, February 4, 5, 11, 12, and 16, 2004.
7. The ultrasound therapy expedited Claimant's healing process.
8. The therapeutic exercises, supervised by Provider's Robert S. Howell, D.C., reduced Claimant's impairment and improved her function by increasing her range of motion and the flexibility in her wrists.
9. Massage therapy promoted relaxation of Claimant's muscles and provided relief from pain, aiding in the healing process.
10. The massage therapy, in conjunction with therapeutic exercises, reduced Claimant's edema and improved joint motion.
11. On each of the disputed dates, Provider performed an expanded problem-focused examination of Claimant in addition to providing her with physical therapy.
12. Between January 27, 2004, and February 16, 2004, and as a result of Provider's treatment, Claimant's pain level dropped from 6 to 3 on a scale of 0-10, with 10 being the most severe pain.

13. On January 27, 2004, Claimant's flexion, extension, radial and ulnar deviation was abnormal in both wrists. By February 16, 2004, Claimant's range of motion had reached normal as a result of the disputed treatment, except that the radial deviation in the left wrist was at 18 degrees instead of the normal 20 degrees.
14. Between January 27, 2004, and February 16, 2004, Claimant's constant moderate soreness in the right wrist was reduced to slight occasional soreness, and the constant moderate soreness in her left wrist was reduced to slight soreness.
15. Between January 27, 2004, and February 16, 2004, Claimant's functional issues related to combing her hair, sweeping and mopping the floor, and doing laundry, were reduced to no issues at all.
16. Between January 27, 2004, and February 16, 2004, Claimant's mental/physical/social limitation of being easily irritated was reduced to no limitation.
17. By February 16, 2004, Claimant's increased soft tissue swelling and decreased range of motion that had been present on January 24, 2004, were no longer in evidence.
18. Provider's disputed treatment of Claimant cured or relieved the effects naturally resulting from her compensable injury, and promoted her recovery.
19. Claimant returned to Provider's office February 18, 2004, but has not returned since, and did not need to undergo further treatment with Dr. Rashid because she had regained normal range of motion and had improved her grip strength under Provider's care.
20. Provider sought reimbursement of \$1,231.64 from Carrier for the initial office visit on January 27, 2004, and for the ultrasound therapy, therapeutic exercises, massage therapy, and office visits provided to Claimant on January 29, February 4 5, 11, 12, and 16, 2004.
21. Carrier denied Provider's claim for the above services on the basis that the treatments were not reasonable or medically necessary.
22. Provider filed a request for medical dispute resolution with the Texas Workers' Compensation Commission's Medical Review Division (MRD), asking for reimbursement of \$1,231.64 for the above-described services.
23. The MRD issued a decision on November 1, 2004, stating that Provider did not prevail on the issue of medical necessity, after its review of the IRO decision issued October 22, 2004, in this dispute.
24. On November 23, 2004, Provider appealed the MRD decision to the State Office of Administrative Hearings (SOAH).
25. On January 14, 2005, TWCC mailed notice of the hearing to Provider and Carrier.

26. The notice 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 sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
27. On April 27, 2005, SOAH Administrative Law Judge Sharon Cloninger held a hearing on the Petitioner's appeal in the William P. Clements Building, Fourth Floor, 300 West 15<sup>th</sup> Street, Austin, Texas. Robert S. Howell, D.C., appeared by telephone and represented Provider. Carrier was represented by Steven M. Tipton, attorney. The hearing concluded and the record closed that same day.

#### **IV. CONCLUSIONS OF LAW**

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this case, including the authority to issue a decision and order, pursuant to TEX. LABOR CODE ANN. §413.031(d) and TEX. GOV'T CODE ANN. ch. 2003.
2. Provider timely filed notice of appeal of the decision of TWCC's MRD, as specified in 28 TEX. ADMIN. CODE (TAC) § 148.3.
3. Proper and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. § 2001.052 and 28 TAC § 148.4(b).
4. As the party appealing the MRD decision, Provider had the burden of proving the case by a preponderance of the evidence, pursuant to 28 TAC §148.21(h) and (i).
5. Based on the above Findings of Fact and pursuant to TEX. LABOR CODE § 408.021(a), Provider's treatment of Claimant's compensable injury was reasonable and medically necessary.
6. Based on the above Findings of Fact and Conclusions of Law, Provider's appeal should be granted, and Provider should be reimbursed \$1,231.64 plus applicable interest.

#### **ORDER**

IT IS, THEREFORE, ORDERED THAT VF Corporation is to reimburse First Rio Valley Medical, P.A., in the amount of \$1,231.64 plus applicable interest.

**SIGNED June 20, 2005.**

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**SHARON CLONINGER  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**