

MEDPRO CLINICS,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	OF
VS.	§	
	§	
FORT BEND I.S.D.,	§	ADMINISTRATIVE HEARINGS
Respondent		

DECISION AND ORDER

MedPro Clinics (Provider), challenges the decision of an Independent Review Organization (IRO) upholding the denial of reimbursement for a physical therapy program rendered to Claimant from March 8, 2004, through May 7, 2004. In this decision, the Administrative Law Judge (ALJ) finds that Provider met its burden of showing that the treatment was reasonable and medically necessary for Claimant’s compensable injury. Therefore, Fort Bend I.S.D. (Carrier) is ordered to reimburse Provider for the treatment rendered.

The hearing convened and closed on April 18, 2005, before Steven M. Rivas, ALJ. David R. Rabbani, D.C., appeared on behalf of Provider. Carrier appeared and was represented by Greg J. Vamvakias, attorney.

I. DISCUSSION

A. Background Facts

Claimant sustained a compensable injury to multiple parts of his body after falling off a ladder on _____. Claimant initially sought treatment from his family physician and subsequently came under the care of Provider. Provider placed Claimant on a treatment program that included office evaluations and active and passive physical therapy modalities. Provider billed Carrier for the treatment rendered, which Carrier denied as not medically necessary. Provider filed a request for medical dispute resolution with the Medical Review Division of the Texas Workers’ Compensation Commission. The dispute was sent to an IRO, which upheld all but one of Carrier’s denials of reimbursement, and Provider filed a request for hearing before the State Office of Administrative Hearings (SOAH). Provider’s dispute that was sent to the IRO included two office visits and several sessions of physical therapy. Provider now seeks reimbursement only for the initial evaluation performed on March 8, 2004, and the re-examination performed on May 5, 2004. The total for both examinations is \$325.09. Provider waived his claim for any other disputed treatment.

2. Applicable Law

The Texas Labor Code contains the Texas Workers’ Compensation Act (the Act) and provides the relevant statutory requirements regarding compensable treatment for workers’ compensation claims. In particular, TEX. LAB. CODE ANN. § 408.021(a) provides that 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 statute further states an employee is specifically entitled to health care 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.

Under the Act §401.011(19), health care includes all reasonable and necessary medical aid, medical examinations, medical treatment, medical diagnoses, medical evaluations, and medical services.

3. Evidence and Analysis

Dr. Rabbani testified that Provider should be reimbursed for both examinations because it was necessary on both occasions to evaluate Claimant's condition. Provider billed the first examination on March 8, 2004, under CPT code 99205; an office visit for a new patient. Dr. Rabbani testified this was Claimant's first visit and that Claimant was an elderly man (72 years old) that had sustained compensable injuries to multiple parts of his body. According to Dr. Rabbani, Claimant did not speak English and required the assistance of an interpreter during both visits and throughout his treatment. Dr. Rabbani testified he obtained a comprehensive history of Claimant, performed a comprehensive examination, and made a medical decision of high complexity in compliance with CPT code 99205. Furthermore, Dr. Rabbani testified that due to Claimant's physical condition and language issues, he spent more than one hour face-to-face with Claimant, which is another requirement under code 99205. In addition, Dr. Rabbani stated that Claimant had up to five injured body parts as a result of his compensable injury, and they all had to be examined on the initial visit. Additionally, Provider asserted, during the first visit he discussed with Claimant his symptoms and prior treatment for each injured body part. As a result of the first visit, Provider recommended further diagnostic tests and a regimen of physical therapy be rendered to Claimant to treat his compensable injury. Provider also had to review several medical records of Claimant's prior treatment, but testified this was not included in the 99205 billing.

Carrier argued that Provider rendered an inappropriate level of care considering Claimant's condition and compensable injury. Carrier asserted Claimant sustained only sprain-type injuries and had pre-existing degenerative conditions that did not require an extensive evaluation called for under code 99205. Carrier contended an appropriate level of care would have been CPT code 99203 or 99204, which also pertain to new patients. Code 99203 and 99204 differ in the amount of face-to-face time a physician is required to spend with the patient and the level of decision-making complexity. Code 99203 requires a physician to make a medical decision that is of low level complexity and spend 30 minutes face-to-face with the patient. Code 99204 requires a physician to make a medical decision of moderate level complexity and spend 45 minutes face-to-face with the patient.

Essentially, Carrier argued Provider could have performed his evaluation on Claimant in 45 minutes or less. In support of its position, Carrier submitted a report by John B. Braswell, D.C., who performed an Independent Medical Evaluation (IME) on Claimant on March 9, 2004. Dr. Braswell concluded that Claimant suffered from degenerative changes in his spine and that a home exercise program would be beneficial in treating Claimant's compensable injury. However, Dr. Braswell came to his conclusions only after performing an examination of Claimant and his alleged injured body parts. Dr. Braswell found that Claimant's injuries to his right elbow, right hip, cervical spine, head and thoracic spine have resolved. Although no time frame is noted, these findings suggest a comprehensive examination was performed similar to the requirements of 99205.

Additionally, Provider argued he was entitled to reimbursement for the re-examination performed on May 5, 2004, which was billed under CPT code 99214. This code is used for an established patient and has the same conditions as code 99205, but it requires the physician to spend only 25 minutes face-to-face with the patient as opposed to one hour under code 99205. Provider argued he had not seen Claimant in two months before this second examination and that it was necessary for him to address Claimant's then-current symptoms and discuss Claimant's treatment up to that point. Again, taking into consideration Claimant's difficulty with the English language, and having not seen Claimant in almost two months, Dr. Rabbani asserted he had to spend at least 25 minutes face-to-face with Claimant discussing his symptoms and treatment up to that point. Following this second visit, Provider recommended further therapy to treat Claimant's compensable injury.

Under 408.021 of the Act, health care is reasonable if it promotes recovery. In this case, it is reasonable that Provider be entitled to full reimbursement for the two examinations performed on Claimant considering Claimant's multiple injuries and his difficulty understanding the English language. Therefore, the ALJ concludes the office examinations performed on March 8, 2004, and May 5, 2004, were medically necessary and should be reimbursed.

II. FINDINGS OF FACT

1. Claimant sustained a compensable injury to multiple parts of his body on ____.
2. Claimant underwent physical therapy and office evaluations to treat his compensable injury.
3. On March 8, 2004, Claimant visited MedPro Clinics (Provider) for the first time for an initial evaluation. Provider billed Fort Bend I.S.D. (Carrier) under CPT Code 99205 for this visit.
4. On May 5, 2004, Claimant visited Provider again for a follow-up evaluation. Provider billed Carrier under CPT Code 99214 for this visit.
5. Provider sought reimbursement for the March 8, 2004, and May 5, 2004, office visits from Carrier, which were denied as not medically necessary.
6. Provider requested medical dispute resolution through the Medical Review Division of the Texas Workers' Compensation Commission (the Commission). The dispute was referred to an Independent Review Organization (IRO), which upheld the denial of reimbursement.
7. Provider timely appealed the IRO decision to the State Office of Administrative Hearings (SOAH).
8. Notice of the hearing in this case was mailed to the parties on October 14, 2004. 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. In the notice, the Commission's staff indicated that it would not participate in the hearing.

9. The hearing convened and closed on April 18, 2005, with Administrative Law Judge Steven M. Rivas presiding. David R. Rabbani, D.C., appeared on behalf of Provider. Carrier appeared and was represented by Greg J. Vamvakias, attorney.
10. Claimant was an elderly man with injuries to multiple parts of his body.
11. During both office visits, Claimant required an interpreter to assist him with the English language.
12. Provider proved that he satisfied all necessary elements to bill for CPT Code 99205 and 99214 for the office visits on March 8, 2004, and May 5, 2004.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. § 413.031.
2. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. §413.031(k) and TEX. GOV'T CODE ANN. ch. 2003.
3. Provider timely requested a hearing as specified in 28 TEX. ADMIN. CODE § 148.3.
4. Proper and timely notice of the hearing was affected upon the parties according to TEX. GOV'T CODE ANN. §§ 2001.051, 2001.052 and 28 TEX. ADMIN. CODE § 148.4.
5. Provider had the burden of proof on its appeal by a preponderance of the evidence, pursuant to 28 TEX. ADMIN. CODE §148.21(h).
6. Under TEX. LAB. CODE ANN. § 408.021(a)(3), an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury.
7. The office visits on March 8, 2004, and May 5, 2004, were medically necessary to treat Claimant's compensable injury.
8. Based on the Findings of Fact and Conclusions of Law, Provider should be reimbursed \$325.09 for the two office visits.

ORDER

IT IS ORDERED THAT the Carrier reimburse Provider \$325.09 for the office visits on March 8, 2004, and May 5, 2004.

Signed on May 12, 2005.

STEVEN M. RIVAS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW JUDGE