

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-03-1564.M5

MDR Tracking Number: M5-02-2222-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Per Rule 133.308(q)(9), the Respondent has refunded the requestor \$460.00 for the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO Decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The requestor has withdrawn the medical dispute for the additional manipulations rendered on 2-20-01 that were denied for no preauthorization. The office visits with manipulations and the additional manipulations were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these charges.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order. This Order is applicable to dates of service 2-20-01 through 6-11-01 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order per Rule 133.307(j)(2).

This Order is hereby issued this 24th day of September 2002.

Dee Z. Torres, Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

August 9, 2002

Re: Medical Dispute Resolution
MDR #: M5-02-2222-01
IRO Certificate No.: IRO 5055

THIS LETTER AND MEDICAL REPORT IS TO REPLACE THE LETTER AND REPORT OF 07/23/02 in which an incorrect decision was conveyed, including incorrect dates.

THE REVIEWER OF THIS CASE DISAGREES WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER. The reviewer determined that the office visits of 04/11/01 and 06/11/01 were medically necessary. The office visits and manipulations of 02/20/01, 02/27/01, 03/13/01, 03/20/01 and 05/21/01 were also medically necessary.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,

MEDICAL CASE REVIEW

This is for _____. I have reviewed the medical information forwarded to me concerning Case File #M5-02-2222-01, in the area of Chiropractic. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. MDR request form, 6 pages.
2. EOB's for dates of service 2/20/01, 2/27/01, 3/13/01, 3/20/01, 4/10/01, 4/11/01, 5/21/01, 6/11/01, 6 pages.

3. NIT narrative request for MDR and case summary, 4 pages.
4. ___ narrative statement of position for denial of reimbursement, 2 pages.
5. ___ pre-authorization, dated 6/04/01, for weekly therapeutic intervention beginning 4/30/01 "for a total of eight days or visits in eight weeks," one page.
6. ___ examination of 1/17/01, opining MMI and 0% impairment, 8 pages.
7. ___ peer review of 1/19/01, listing diagnosis of myalgia, lateral epicondylitis, and cervical sprain, 3 pages.
8. ___ pre-authorization dated 1/05/01 for O.T. for the wrist, beginning 1/03/01 "for four days or visits in three weeks."
9. ___ excuse for jury duty dated 11/22/00.
10. ___ pre-authorization dated 11/03/00 for O.T. for the wrist, beginning 11/02/00 "for 12 days or visit in four weeks."
11. Copy of TWCC Medicine Ground Rules, 2 pages.
12. TWCC-73, demonstrating return to work just long enough to retire, and then back off work, 6 pages.
13. ___ treatment notes dated 10/19/01, 9/21/01, and 8/22/01, 3 pages.
14. ___ visit note of 8/09/01, one page.
15. ___ visit note of 7/16/01, one page.
16. NIT treatment notes dated 7/11/01, 6/22/01, 6/20/01, 6/11/01, 6/01/01, 5/21/01, 5/01/01, 4/11/01, 4/10/01, and 4/05/01, 10 pages.
17. ___ pain management report for ESI, dated 3/28/01, 2 pages.
18. NIT visit notes dated 3/11/01 and 3/07/01, 2 pages.
19. ___ visit and procedure notes dated 2/23/01 and 2/15/01, respectively, 3 pages.
20. NIT visit notes dated 2/07/01, 2 pages.
21. ___ initial exam narrative dated 1/23/01, 2 pages.
22. NIT visit notes dated 1/09/01, 12/08/00, 11/13/00, 3 pages.
23. ___ post-surgical visit note dated 10/23/00, one page.
24. NIT visit notes dated 10/17/00 and 8/03/00, 2 pages.
25. ___ visit note dated 8/10/00, one page.
26. NIT visit note dated 7/20/00, one page.
27. ___ initial medical report dated 7/14/00, 4 pages.
28. NIT visit note dated 6/27/00, one page.
29. ___ visit note dated 6/22/00, one page.
30. NIT initial exam report dated 6/19/00, 4 pages.
31. NIT manipulation sheets dated 3/20/01, 3/13/01, 2/27/01, and 2/20/01, 4 pages.
32. NIT therapists' notes, 26 pages.
33. NIT FCE dated 4/18/01, 38 pages.
34. NIT FCE dated 2/20/01, 48 pages.
35. NIT FCE/PPE dated 11/28/00, 32 pages.

36. MRI of the lumbar spine dated 12/02/00, one page.
37. MRI of the cervical spine dated 12/02/00, one page.
38. EMG/NCV dated 7/28/00, 3 pages.

B. SUMMARY OF EVENTS:

On ____, the patient filed a claim for injuries sustained on the job. These injuries included RSI of the cervical spine, the thoracic spine, the lumbar spine; bilateral lateral epicondylitis; right side medial epicondylitis; a ganglion cyst of the right wrist; and adhesive capsulitis of the right shoulder. On 6/19/00, the patient presented to the ____ seeking relief. She was thoroughly diagnosed by MRI and EMG/NCV. The patient was properly referred to various specialists and received treatment from them as indicated.

She has subsequently been through a significant amount of reconditioning therapy with some degree of documented improvement. Her degenerative spinal condition apparently continues to resist a good resolution, and she continues to seek palliative relief. The ____ has continued to provide palliative manipulations at a documented decreasing interval. The insurance carrier, ____, feels the ongoing palliative care is not medically necessary.

C. OPINION:

I DISAGREE WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE. THE OFFICE VISITS OF 04/11/01 AND 06/11/01 WERE MEDICALLY NECESSARY, AS WERE THE OFFICE VISITS AND MANIPULATIONS ON 02/20/01, 02/27/01, 03/13/01, 03/20/01, AND 05/21/01.

The disk injuries in her neck and lower back are clearly documented. The sclerosing in the lumbar spine and spondylosing in the cervical spine are clear indicators of chronic repetitive stress suffered by the spine. According to the records, there is no mention of contestation of extent of injury, so the patient is entitled, by law, to "open medical" treatment of her compensable injuries.

I believe the ongoing manipulations were medically necessary to provide the patient with the relief from symptoms that she was seeking. Degenerative spinal disease is just as chronic as diabetes or emphysema and, just as properly, requires ongoing management and treatment. It is unfortunate that spinal manipulation cannot be put in a bottle and prescribed the way medicine can for home treatment, requiring only periodic follow-up and prescription renewal.

It has and continues to be my experience that periodic manipulations are reasonably necessary to help individuals suffering from spine pain to modulate their pain level in order to have as good a quality of life as possible. Usually, the frequency of palliative treatment decreases with time. According to the records presented, this seems to be the general trend with this patient as well. Therefore, I believe that ___ treatment has not, at this point, gone “beyond the pale” of reasonable and necessary.

The general source of the screening criteria used in reaching my decision comes primarily from 12 years of experience from the daily treatment of musculoskeletal disorders exactly like and/or similar to this patient's. Secondly, my criteria are derived from daily interaction and conference with other providers and specialists also involved in treating musculoskeletal disorders. Third, my criteria are predicated on the statistical predictions for treatment and recovery espoused in the *TWCC Spine Treatment Guidelines* as well as those espoused in the *Mercy Conference Guidelines*.

D. ADDITIONAL COMMENTS:

None.

E. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

Date: 22 July 2002