

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

**SOAH DOCKET NO. 453-03-1775.M5**

MDR Tracking Number: M5-02-2926-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the chiropractic treatment (including office visits and therapies) was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that the chiropractic treatment (including office visits and therapies) fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 9/24/01 to 3/21/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 6<sup>th</sup> day of, December 2002.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

NOTICE OF INDEPENDENT REVIEW DECISION

November 21, 2002

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
4000 South IH-35, MS 48  
Austin, TX 78704-7491

RE: MDR Tracking #: M5-02-2926-01  
IRO Certificate #: 4326

\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has

assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

#### Clinical History

This 55 year old female sustained a work related injury on \_\_\_ when she fell; landing on her left knee and then on to her lower back. The patient complained of pain in her low back and initial x-rays revealed no fractures. Upon examination, the patient complained of tenderness and muscle spasms from spinal level L3 to S1. An MRI of the lumbar spine revealed a herniated nucleus pulposus (HNP) at L5-S1.

#### Requested Service(s)

Chiropractic treatment rendered from 09/24/01 through 03/21/02.

#### Decision

It is determined that the chiropractic treatment rendered from 09/24/01 through 03/21/02 was not medically necessary to treat this patient's condition.

#### Rationale/Basis for Decision

A review of the patient's evaluations revealed no substantive changes in her condition as the result of chiropractic treatments. The patient was evaluated on 07/27/01 and the report indicated that the patient had a normal neurological evaluation. The patient underwent a required medical evaluation on 08/14/01 and the report indicated the patient weighed 232 pounds and she was able to flex her lumbar spine to 75 degrees and extend it 15 degrees. Motor, sensory, and reflex status were normal and the functional capacity evaluation done on 08/14/01 indicated that patient was functioning at the medium physical demand level. The patient reported that manipulation only helped while in the office during her 08/14/01

impairment rating evaluation. The patient was certified at maximum medical improvement with 2% whole body impairment on 08/14/01

A review of past treatment revealed that the patient began chiropractic treatment on 10/27/00 and has been treated on a regular basis with manipulation, passive modalities, and active care since the initiation of chiropractic treatment. The medical records revealed that the patient was treated on at least 66 occasions from January 2001 to July 2001 with manipulation, diathermy, intersegmental traction, and therapeutic procedures. A review of the chiropractic re-examinations revealed no substantive change in her condition over the dates of service reviewed.

Chiropractic records from 09/24/01 through 03/21/02 revealed that the patient was treated on 25 occasions with manipulation, diathermy, mechanical traction, and therapeutic procedures in varying combinations. The patient had another functional capacity evaluation (FCE) done on 09/28/01 that revealed she was 5' 4" tall and weighed 232 pounds. The treatments consisting of manipulation, passive physical therapy (mechanical traction, diathermy) and rehabilitation (97530) were not medically necessary. The patient's condition was stable and the medical records reviewed provided no evidence that the continued use of manipulation was of any substantive benefit.

As noted in the report from the required medical evaluation dated 08/14/01, the continued use of manipulation was not providing any substantive benefits for the patient. Chiropractic literature clearly demonstrates that the response to manipulation diminishes as the length of the condition increases. McDonald and Bell, in an open controlled pilot trial on nonspecific low back pain patients to assess the effects of spinal manipulation as referenced in McDonald, R.S., and Bell C., "An Open Controlled Assessment of Osteopathic Manipulation in Nonspecific Low Back Pain", Spine, 15:364-370, 1990), found that after 4-6 weeks there was no appreciable improvement in the disability index (a measure of activities of daily living interference).

Bronfort noted that, based on the most recent and comprehensive systematic review, there is moderate evidence of short-term efficacy for spinal manipulation in the treatment of both acute and chronic low back pain. There is insufficient data available to draw conclusions regarding the efficacy for lumbar radiculopathy. The evidence is also not conclusive for the long-term efficacy of spinal manipulation for any type of low back pain as referenced in Bronfort G. "Spinal Manipulation: Current State of Research and Its Indications." Nerol Clin 1999 Feb; 17(1): 91-111.

The continued use of passive physical therapy (90712 and 97024) was not medically necessary. The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indication (e.g., thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy as referenced in

“Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain” Phys Ther. 2001;81:1641-1674.

The Agency for Health Care Policy and Research: Clinical Practice Guideline Number 14, “Acute Low Back Problems In Adults” indicates that “the use of physical agents and modalities in the treatment of acute low back problems is of insufficiently proven benefit to justify its cost. They did note some patients with acute low back problems appear to have a temporary symptomatic relief with physical agents and modalities, however, the use of passive physical therapy modalities (hot/cold packs, electrical stimulation) is not indicated after the first 2-3 weeks of care.

Hurwitz et al studied the net effect of physical modalities on low back pain outcomes among chiropractic patients in a managed-care setting. Clinically relevant improvements in average pain and disability were more likely in the modalities group at 2 and 6 weeks, but apparent advantage disappeared at 6 months. Perceived treatment effectiveness was greater in the modalities group. The authors concluded that physical modalities used by chiropractors did not appear to be effective in the treatment of patients with low back pain, although a short-term benefit for some patients cannot be ruled out as referenced in Eric L. Hurwitz, et al, “The Effectiveness of Physical Modalities Among Patient With Low Back Pain Randomized to Chiropractic Care: Finding From the UCLA Low Back Pain Study “, JMPT, Vol. 25, No. 1, 2002.

The use of rehabilitation (97530) was not medically necessary. The procedures were only employed on 9 of the 25 recorded dates of service from 09/24/01 through 03/21/02. A review of the frequency of the use of the rehabilitation procedures revealed that the patient was treated on 09/26/01 and was treated again on 10/01/01. Two weeks passed before the patient was treated with rehabilitation again (10/15/01). Following this, the patient was treated on 10/19/01, 10/22/01, and 10/26/01. There was substantial interruption in her care (as passive care continued) and rehabilitation was done again on 12/03/01, 12/07/01 and 12/10/01. The use of these procedures was not medically necessary due to the irregular nature of care received and the lack of appreciable benefits noted in the patient’s condition.

Data from Spine 15:364-370, 1990, Neuro Clin 17:91-111, 1999, and Phys Ther 81:1641-1674, 2001, provide the basis for denying the necessity of chiropractic treatment from 09/24/01 through 03/21/02.

Therefore, the chiropractic treatment rendered from 09/24/01 through 03/21/02 was not medically necessary to treat this patient’s condition.