

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General 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. This dispute was received on 03-17-03.

The IRO reviewed office visits, electrical stimulation, hot or cold packs, myofascial release, neuromuscular re-education, and therapeutic procedures rendered from 04-22-02 through 07-10-02 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for office visits, electrical stimulation, hot or cold packs, myofascial release, neuromuscular re-education, and therapeutic procedures for 05-02-02 to 07-10-02. On this basis, the total amount recommended for reimbursement (\$954.00) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity for office visits, myofascial release, neuromuscular re-education, and therapeutic procedures from 04-22-02 through 05-02-02. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

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 for office visits, electrical stimulation, hot or cold packs, myofascial release, neuromuscular re-education, and therapeutic procedures. The respondent raised no other reasons for denying reimbursement for the above listed services.

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 04-22-02 through 05-02-02 in this dispute.

This Decision is hereby issued this 13th day of February 2004.

Georgina Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION- AMENDED

Date: February 11, 2004

RE: MDR Tracking #: M5-03-1747-01
IRO Certificate #: 5242

___ 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 proposed 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 Chiropractic physician reviewer. The Chiropractic physician reviewer 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

The claimant allegedly injured his low back region performing his occupational duties, lifting auto parts while working for his employer on ___. Documentation received for this review began on 4/12/02 for the said injury date of ___. Per treatment notes, the claimant had received on going treatment to the lumbar region consisting of chiropractic manipulations and physical modalities (passive therapy), inclusive of cold packs, EMS, myofascial release and neuromuscular re-education from ___ who ordered an MRI of the lumbar spine which was performed on 4/12/02 with the major finding of an approximate 2mm broad-based annular bulge is seen to touch and slightly efface the thecal sac at L3-L4 and L4-L5 levels.

Per treatment notes, treatment and therapy had only resulted in slight improvement, therefore, ___ referred the claimant for a lumbar epidural steroid injection consult with ___ ___ (not available for this review) and a surgical consult on 5/03/02 with ___ who reported impressions of (1) lumbago and (2) lumbar myofascial injury and recommended various options inclusive of: do nothing, but continue with physical therapy for symptomatic relief, possibly evaluate for lumbar epidural steroid injections with lysis of adhesions or possible surgical intervention. However, ___ did not feel that the claimant was a surgical candidate at this time; he felt that he would benefit from the continued physical therapy for relief and that he should consider the lumbar epidural steroid therapy with lysis of adhesions, should symptoms continue. No medication was prescribed and the claimant was to be seen on an as needed basis, per consult report dated 5/03/02.

Per treatment notes, lumbar epidural steroid injections were scheduled for 6/05/02, however procedure documentation was not made available for this review.

Per notes received, a peer review was performed on 7/29/02 by ___ ___ ___ (however, not available for this review) who stated treatment to date and epidural steroid injections were medically necessary and that the claimant was a candidate for a rehabilitation program, such as a work hardening program, the

claimant was unable to work in full duty capacity and would not be at MMI until the rehabilitation program was completed, per rationale letter by ___ dated 12/26/02.

A designated doctor exam was performed on 10/14/02, by ___ who found the claimant to be at clinical MMI on that date and gave an impairment of 5% of the whole person.

No other treatment notes were available beyond 7/10/02, which reports the claimant's assessment as improving as anticipated and is continuing to improve weekly.

Requested Service(s)

Please address the office visits, electric stimulation, hot/cold packs, myofascial release, neuromuscular reeducation, and therapeutic procedures rendered on dates of service from 4/22/02 to 7/10/02.

Decision

I disagree with the insurance carrier and find that office visits, myofascial release, neuromuscular reeducation, electric stimulation, and therapeutic procedures for the exacerbation condition from 4/22/02 up through 5/02/02 was medically necessary.

I agree with the insurance carrier and find that all treatment from 5/02/02 to 7/10/02 was not medically necessary.

Rationale/Basis for Decision

This claimant apparently received prior extensive chiropractic conservative care with RTW before this exacerbation incident on or about 4/22/02. It was documented during this prior care that epidural steroid injections were recommended, although improvement was made and they became unnecessary. Apparently, the claimant suffered a worsening of the condition on or about 4/22/02 and was subsequently taken off work with the implementation of supportive chiropractic care to relieve the exacerbation condition and await epidural steroid injection approval. Obviously, the very fact of recommending epidural steroid injections is proof that current treatment was not able to alleviate or change the condition to any significant degree. Treatment for this exacerbation condition should, therefore, have been minimized and not regularly scheduled at that point. A sufficient trial period of chiropractic conservative care apparently was already delivered and it would not be logical to expect any further significant change with more regularly scheduled care of the same variety. The claimant was off work, awaiting approval of epidural steroid injections and it would not be illogical to think that this claimant could have participated in their own recovery with self administered pain relieving techniques (i.e. cold/heat packs, relaxation techniques, over the counter medications, if necessary, etc.) and the use of a home based stretch/strength exercise program, including McKenzie protocol, instead of clinically supervised treatment at this frequency, after the initial 1-2 weeks of passive therapy to settle the exacerbation condition. Furthermore, if the pain was that severe as reported by the treating doctor, then the claimant may have needed a stronger pain medication. Remember this was not trial period treatment; this was regarded as only palliative care until other forms of treatment could be delivered. Regularly scheduled treatment would not be supported, according to the TWCC spine treatment guideline, used as a reference.

NOTE:

It is interesting to discover that the treating doctor continually reports that treatment was necessary to help the claimant's pain become more tolerable. This leads one to believe that pain levels were severe. However, on 5/03/02, approximately 1 week since the initiation of supportive care, a second opinion surgical evaluation is performed by ___. Here the claimant reports moderate improvement in symptomatology with a visual analog scale pain level of 3 out of 10. This hardly could be described as severe pain that is tolerable. The claimant described his back pain as an intermittent deep ache, without

radiation and without associated numbness or tingling. Motor and neurological testing on that day found no deficit and range of motion was documented as full.

Orthopedics, were normal, including straight leg raise. In fact, this doctor found no deficits, according to the report and the only variance was the MRI report of two level mild disc bulging without neural compromise, which would even be questionable for epidural steroid injection recommendations. This does not sound like the same claimant as described by _____. One would think some positives would have been discovered by _____, if this claimant was still in need of regularly scheduled care. However, just 2 days later on 5/07/03, progress report by the treating doctor records the claimant as still having excessive pain complaints and spasms and pain radiation down the posterior leg to the foot. Obviously, these are conflicting reports and leads to some questionable doubt for the necessity of continued treatment.

Concerning epidural steroid injections and in light of documented intermittent pain with the described exacerbation condition, if they were authorized, then active therapy for 1-2 weeks at 3 times per week, following their administering is reasonable and is sufficient time to judge improvement. There are no set parameters that require passive/active therapy following epidural steroid injections. However, it has been my experience that it is beneficial to the procedure and the best time to increase active motions is when pain levels are decreased.

The use of passive therapy is not included in this treatment, according to the previously mentioned rationale and since the pain is being temporarily controlled by the injection. Four units or less of active therapy would be reasonable, for the one area described.