

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 11-3-03.

Dates of service prior to 11-3-02 were submitted untimely per above referenced rule and will not be considered further in this decision.

The IRO reviewed office visits with manipulations, myofascial release, electric stimulation, ultrasound, required reports, therapeutic exercises, mechanical traction, application of modality, iontophoresis, traction stand, durable medical equipment and prolonged physician services rendered from 11-8-02 through 7-31-03 that were denied based upon “U”.

The IRO concluded that services rendered from 11-8-02 through 12-2-02 were medically necessary, except for office visits billed on 11-11-02, 11-13-02, 11-22-02, 11-25-02 and 11-27-02. The office visits rendered on 1-16-03, 2-28-03, 3-12-03, 4-16-03, 5-14-03, 6-16-03 and 7-31-03 were medically necessary. The IRO concluded that office visits rendered 11-11-02, 11-13-02, 11-22-02, 11-25-02 and 11-27-02 and remainder of care were not medically necessary.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

On this basis, the total amount recommended for reimbursement (\$1241.00) 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.

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

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On January 12, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor’s receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
2-28-03	E0850	\$300.00	\$191.96	N, M	DOP	Section 413.011(d) General Instructions GR (III)	Traction stand freestanding – Respondent submitted a response that indicates payment of \$191.96 was made. The requestor failed to support position that additional reimbursement per statute is due.
4-16-03	97122	\$40.00	\$0.00	No EOB	\$35.00	CPT Code Descriptor	MAR reimbursement of \$35.00 is recommended.
8-4-03	99080-73	\$15.00	\$0.00	F	\$12.00		MAR reimbursement of \$12.00 is recommended.
9-4-03 9-5-03 9-8-03	99213-25	\$60.00	\$0.00	N	\$59.00		SOAP notes document billed service per MFG, reimbursement of \$59.00 X 3 dates = \$177.00 is recommended.
9-4-03 9-5-03 9-8-03	98941	\$45.00	\$0.00	N	\$41.89		SOAP notes document billed service per MFG, reimbursement of \$41.89 X 3 dates = \$125.67 is recommended.
9-8-03	97033	\$40.00	\$0.00	N	\$23.35		SOAP notes document billed service per MFG, reimbursement of \$23.35 is recommended.
9-8-03	97032	\$25.00	\$0.00	N	\$18.83		SOAP notes document billed service per MFG, reimbursement of \$18.83 is recommended.
TOTAL							

This Decision is hereby issued this 10th day of September 2004

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

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 11-8-02 through 9-8-03 in this dispute.

This Order is hereby issued this 10th day of September 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION - AMENDED

Date: January 26, 2004

RE: MDR Tracking #: M5-04-0687-01
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 that has ADL certification. 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

According to the supplied documentation, it appears that the claimant injured her back and arms when she fell on a pallet while at work on ___. The claimant presented to ___ for evaluation. The claimant underwent upper and lower NCV studies which revealed an abnormal study. The test suggested possible bilateral median neuropathies consistent with carpal tunnel or median nerve entrapment. The lower test revealed a left peroneal neuropathy with axon loss or as a result of chronic left L5 root dysfunction. A MRI performed on 10/02/2002 revealed an annular tear of the L4-5 disc and a degenerative circumferential 1 mm bulge at L5-S1. The claimant was evaluated and treated by several chiropractic and medical doctors for her condition and complaints. The claimant underwent bilateral transforaminal epidural steroid injections. The claimant has been treated with pain and antidepressant medications. She underwent a significant amount of chiropractic therapy with ___ from ___ until 11/04/2003. There was extensive documentation from the date of injury to 11/2003, which was reviewed in its entirety. There was also a report of a prior work injury to the claimant's low back approximately 25 years prior to the injury in question.

Requested Service(s)

Please review and address the medical necessity of the outpatient services including office visits including manipulations, myofascial release, E.M.S., ultrasound, reports, therapeutic exercises,

DME, traction, application of modalities, ionphoresis, traction standing, and prolonged physician services rendered between 11/08/2002 – 07/31/2003.

Decision

I disagree with the insurance company and agree with the treating physician that the services rendered from 11/08/2002 until 12/02/2002 were medically necessary with the exception of the office visits billed on 11/11/2002, 11/13/2002, 11/22/2002, 11/25/2002 and on 11/27/2002. The office visits rendered on 01/16/2003, 02/28/2003, 03/12/2003, 04/16/2003, 05/14/2003, 06/16/2003 and 07/31/2003 were also deemed medically necessary. I agree with the insurance company that the office visits rendered on 11/11/2003, 11/13/2003, 11/22/2003, 11/25/2003, 11/27/2003 and the remainder of care not listed above is considered not medically necessary.

Rationale/Basis for Decision

According to the supplied documentation, it appears that the claimant sustained an injury to her low back. The MRI performed on 10/02/2002 revealed an annular tear at L4-5 with disc desiccation. There was also a degenerative 1 mm annular bulge at L5/S1. There was not any protrusions or herniations noted. Since the diagnosis was limited due to the pre-existing complaints, the therapy performed should have been limited too. The initial 8-12 weeks of therapy is considered reasonable and medically necessary in the claimants case. The claimant was treated with passive modalities and injections during this time. Therapy beyond the original 12-week timeframe was not objectively documented to improve the claimant's injury and potentially could lead to doctor dependence. Monthly office visits to monitor the claimant's condition and refer as needed are considered reasonable and fall within current medical/chiropractic protocols. According to Essentials of Musculoskeletal Care, by Robert K. Snider, M.D. (published by American Academy of Orthopaedic Surgeons, 1997), on page 511, "Massage, cervical traction, and manipulation of the spine may also be beneficial, as may modalities such as heat, ice, and ultrasound; however, the most benefit from these techniques will be derived within 4 weeks." Dr. Snider also stated that passive modalities help for the first 3-4 weeks, but at that point the patient should be transitioned to exercise and strengthening regimens. Oregon K. Hunter, Jr. M.D. states "The typical therapy prescription is recommended 3 times per week for 4-8 weeks. All of the therapy beyond the initial 12 weeks is not supported and did not produce adequate enough results to continue beyond 12/02/2002.

All of the therapy beyond the initial 12 weeks is not supported and did not produce adequate enough results to continue beyond 12/02/2002.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 13th day of January 2004.