

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on November 7, 2003.

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 psychiatric diagnostic interview, office consultation, and unlisted physical medical rehabilitation services were 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 fees were the only fees involved in the medical dispute to be resolved. As the treatment listed above was not found to be medically necessary, reimbursement for dates of service from 06-16-03 to 08-29-03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 12th day of March 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division
PR/pr

NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 11, 2004

MDR Tracking #: M5-04-0753-01
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 Physical Medicine and Rehabilitation/Chiropractic reviewer (who is board certified in Physical Medicine and Rehabilitation) who has an ADL certification. The 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

This claimant is an approximate 44 year old female with a height of 5'1" and weight of 250 pounds. By body mass index (BMI), this would be extremely obese.

This claimant has a reported on the job injury on ___ when working as a care provider for a visiting nurse's company. On that date, she tripped at a patient's home on a step and fell forward and then down twisting her lower back. She went to the emergency room, was treated and evaluated and diagnosed with a strain and given medications. She continued with her pain and subsequently had a lumbar MRI scan on 4/13/00 showing broad based disc bulge at L3/4 with bilateral facet arthropathy causing mild spinal canal stenosis, L4/5 broad based disc bulge with bilateral facet arthropathy resulting in moderate spinal canal stenosis. It is my opinion that these findings are degenerative in nature and disease of life along with her excessive weight. She attended physical therapy and chiropractic programs for approximately one year which helped very little. She was placed at MMI on 2/13/01 by ___ and given an impairment rating. She continued with pain and then saw neurosurgeon, ___ who continues to follow her. The claimant subsequently had lumbar surgery on 6/22/01 for degenerative herniated discs at L3/4 and L4/5 with decompression of the nerve roots on the left side at both of those levels and partial fasciotomy at the left L5. She had a slight improvement of pain but then her pain returned. She continued with physical therapy and chiropractic care gain post operatively with ___ and this lasted for approximately one more year. Records from ___ 2/4/03 note, states she is on a walking program and appears to still be doing physical therapy. On 3/25/03 she was complaining of problems with her left leg but is walking 6-8 blocks per day. She had back and leg complaints on 5/6/03. Medications of Vioxx and Vicodin are refilled. On 7/8/03, the claimant is still obese. She is now having some high blood pressure and states her legs will give way and she falls, and complains of bilateral lower extremity numbness. Her exam, however, is unchanged. She was using a cane on this visit. As of 12/9/03 the claimant remains off work. It states in this note that she was hurt in ___, had surgery 18 months ago, the claimant seems to be recovering well from her surgery but the claimant claims she is not ready to return to work yet. There is a dispute and review regarding services from 6/16/03 to 8/29/03 that include billing of codes 90801 for psychological diagnostic interview, 99245 initial office consult and 97799 which is unlisted physical medicine/rehabilitation services procedure being billed at \$1000 per session. On 5/7/03 the claimant saw ___. It was his opinion that this claimant needed to lose weight, he instructed on proper spine biomechanics and do a daily home exercise program. When the claimant had the physical therapy/FCE, she had findings that were significant for either symptom magnification and/or malingering that were documented by the therapist. Under Inappropriate Illness Behavior Profile, she was positive for 6 out of 7 categories testing. Validity Profile was invalid for 4 out of 6 categories tested. Therefore, they recommended symptom magnification evaluation. I feel that this would be redundant as they had already evaluated this claimant and found that symptom magnification was present.

Requested Service(s)

Outpatient services billed from 6/16/03 to 8/29/03 including psychiatric diagnostic interview, office consultation, and unlisted physical medical rehabilitation services.

Decision

I agree with the insurance carrier and find that the services in dispute were not medically necessary.

Rationale/Basis for Decision

It is my opinion the claimant was already at MMI. She had a prolonged course of chiropractic and physical therapy for what is stated by ___ for one year before her surgery and then one year after the surgery. I feel over utilization in physical therapy and chiropractic care has been rendered in this case. I feel this claimant was at MMI prior to any of the service dates in dispute and should have been on a home exercise program and a weight loss program only. The most significant improvement by this claimant, in my opinion, for her ongoing complaints is to lose weight. Therefore, services from 6/16/03 to 8/29/03, in my opinion, should be denied as medically unnecessary and inappropriate in this claimant's ongoing chronic complaints.