

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 18, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. 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. The therapeutic procedures, mechanical traction, aquatic therapy, and myofascial release were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 02/19/03 through 05/01/03 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 (Rule 133.307(j)(2)).

This Order is hereby issued this 30th day of January 2004.

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

NOTICE OF INDEPENDENT REVIEW DECISION

Date: January 16, 2004

RE: MDR Tracking #: M5-04-0835-01
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 reviewer 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

It appears the claimant was working for ___ when she was helping to throw deceased animals into a dumpster and suffered a low back injury. The documentation provided for review begins with some ___ documentation of 12/13/02 revealing the claimant had no radicular signs or symptoms; however, she did have low back pain and was diagnosed with a sacroiliac sprain/strain injury. The claimant was returned to work with restrictions and was able to work for a couple of weeks; however, due to increased pain even with modified work duties, she sought chiropractic treatment on 12/27/02. At this point she was complaining of severe bilateral low back pain with left lower extremity symptoms. She was also complaining of alleged severe mid-back pain as well as even some mild left sided neck pain. It was documented the claimant had sustained a prior low back injury with the same employer; however, this had resolved. The claimant was complaining of some numbness and tingling in the left foot as well as weakness in the left lower extremity. The chiropractor, who in this case was ___, recommended an electric muscle stimulator unit for home use as well as a lumbar MRI. It was recommended the claimant be off work. Multiple chiropractic daily notes were provided for review and these were reviewed. The claimant apparently had 6 lumbar vertebrae according to the lumbar x-rays. There appeared to be a decrease in subjective pain as of 1/9/03. An MRI of the lumbar spine revealed there to be a 2-3mm focal right paracentral disc herniation at the L5/S1 level that did not appear to be causing any neurological compression. A bilateral lower extremity EMG study of 2/7/03 was also reported to be normal. The claimant's pain levels were down to a 3-4/10-pain level as of a chiropractic note of 2/14/03. The claimant underwent numerous injections to include trigger point injections, facet injections and epidural steroid injections. The claimant also saw ___. On 2/22/03 and at this time the claimant was demonstrating no leg complaints or lower extremity radicular signs or symptoms. The claimant underwent paravertebral nerve blocks on 3/3/03. A chiropractic note of 3/17/03 revealed the claimant was better after her injections by 50% over a sustained amount of time. The claimant appeared to have a positive straight leg raise; however, this was for low back pain only at this time. The claimant underwent a left sided sacroiliac joint injection on 3/19/03. The claimant was undergoing some aquatic therapy on 3/20/03. The claimant underwent an epidural steroid injection on 4/15/03 and this produced 60-70% improvement during the first 2 days after the injection. An FCE report of 4/9/03 was reviewed revealing the claimant was functioning at the light duty level. A right sacroiliac joint injection was performed on 4/22/03. A work conditioning program was approved on 5/12/03. The claimant saw ___ on 5/12/03 and again there was no evidence of nerve root tension. ___ reviewed the MRI and felt there was no significant central canal or foraminal stenosis. A chronic pain management program was recommended. The claimant appeared at this time to have leg pain that was worse than the low back pain which was really in contradiction to the rest of the documentation. A post work conditioning program FCE of, I believe, 7/1/03 revealed the claimant to be functioning at the medium duty level. The claimant was returned to work as of 7/24/03 without restrictions by her treating chiropractor, who in this case ___.

Requested Service(s)

The medical necessity of the outpatient services including therapeutic procedures, mechanical traction, aquatic therapy, and myofascial release which were rendered from 2/19/03 through 5/1/03.

Decision

I disagree with the insurance carrier and find that the services in dispute were indeed medically necessary.

Rationale/Basis for Decision

My review of the records reveals there are only 5 dates of service in dispute and it should be noted the claimant underwent injections on 3/3/03, 3/11/03, 3/19/03, 4/15/03 and 4/22/03. Some post injection therapy would of course be medically necessary, reasonable and customary and there was documented evidence of objective improvement throughout this time period. Although it is sometimes appropriate to utilize an evidence based treatment guideline to substantiate or deny care, it is not always appropriate to utilize the guidelines in every case. In this particular case the documentation in my opinion was very good and objective progress was shown. The claimant went from the light duty level to the medium duty level and some post injection therapy would be considered reasonable and customary. The claimant initially tried to work back in December 2002; however, she was not able to tolerate work even after modifications in the light duty program were made. This prompted her change of treating physicians to a chiropractor and the claimant did appreciate improvement in the long run. The overall treatment that was administered would be considered appropriate for the diagnosis and clinical findings and status. A sufficient and well received rationale was reviewed in ___ request for reconsideration of 8/27/03. Appropriate referrals were made and the claimant was returned to work without restrictions.