

MDR Tracking Number: M5-04-1117-01

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 12-18-03.

In accordance with Rule 133.308 (e), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 12-18-03, therefore the following date(s) of service are not timely and are not eligible for this review: 12-17-02.

Date of service 3-21-03 was withdrawn by the requestor on 10-4-04.

The Medical Review 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 electrical stimulation-unattended, therapeutic exercise, neuromuscular re-education, EU-unlisted modality (cont passive motion & simul elec stim/ultra), joint mobilization, manual traction, office visits with manipulation, required report, analysis of clinical data in computer, prolonged physician service, electrodes and application of surface neuro-stimulation from 12-18-02 through 5-10-03 were not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 3-2-04, the Medical Review Division submitted a Notice to the 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 carrier denied CPT Code 99214, date of service 2-19-03, for N – Documentation does not support billed code. This level of service requires at least two of these three key components: a detailed history; a detailed examination; medical decision making of moderate complexity. Daily notes supports detailed examination and medical decision making of moderate complexity. **Recommend reimbursement in accordance with the 1996 Medical Fee Guidelines of \$71.00.**

Pursuant to 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) for dates of service through July 31, 2003;
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

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 Decision and Order is hereby issued this 4th day of October 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

February 27, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-1117-01
IRO Certificate No.: IRO 5055

Dear Ms. Lopez:

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

REVIEWER'S REPORT

Information Provided for Review:

Correspondence and Plan documentation
H&P and office notes
Physical therapy notes
Functional Capacity Evaluation
Radiology report

Clinical History:

This claimant is a 24-year-old male who was involved in a work-related accident on ____, resulting in a back injury. Radiographs were taken that day and were unremarkable for osseous pathology. The claimant was advised to return to work in 2 days.

The pain continued, and the claimant presented for chiropractic treatment. Conservative therapeutics were applied that included electrical stimulation-unattended, therapeutic exercise, neuromuscular reeducation, EU-unlisted modality (continuous passive motion and simultaneous electrical stimulation/ultrasound), joint mobilization, manual traction, office visit with manipulation, and application of surface neurostimulation. Reviewed records show that 42 sessions of therapy were applied from 12/18/02 through 05/10/03. MR imaging of the lumbar spine ordered on 10/29/02 revealed a 2 mm broad-based disc protrusion at L5/S1. Neurodiagnostic testing that included a nerve conduction velocity (NCV), performed on 11/04/02, revealed a mild left L5 radiculopathy.

Evaluation on 12/18/02 indicated that the claimant had a left S1 radiculopathy by exam, left L5 radiculopathy by NCV, lumbar facet syndrome, and a 2 mm disc bulge at L5/S1. An independent medical examination (IME), performed on 01/21/03 revealed that the claimant possessed the ability to return to work following the results of his 11/21/02 functional capacity evaluation (FCE). On 03/21/03, the claimant was placed at maximum medical improvement (MMI) with a 6% whole person impairment function assigned. On a number of occasions from 01/15/03 through 07/16/03, peer reviewers have questions regarding passive conservative applications administered by the treating chiropractor, and the efficacy of continued utilization of these therapeutics in the management of this claimant's condition.

Disputed Services during the period of 12/18/02 through 05/10/03 (Not 02/19/03 or 03/21/03):

- Electrical stimulation-unattended
- Therapeutic exercise
- Neuromuscular re-education
- EU-unlisted modality (cont passive motion & simul elec stim/ultra)
- Join mobilization
- Manual traction
- Office visits w/manipulation
- Required report
- Analysis of clinical data in computer
- Prolonged physician services
- Electrodes
- Application of surface neuro-stimulation

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the treatment and services in disputed as listed above were not medically necessary in this case.

Rationale:

The continued application of passive therapeutics in the management of this claimant's condition is not typical and not supported by the reviewed medical documentation. The claimant's treatment within a passive algorithm should have not had a duration greater than 2-3 weeks (6-9 sessions); not 42 sessions. The provider has an obligation to the management of this patient to perform passive physical therapy applications in a time-limited manner. It appears that there was not a time-limited manner established for the management of this claimant's condition. Among rehabilitation professionals in the management of like and similar conditions, the patient will be expeditiously transitioned to active, patient-driven therapeutics. Continued administration of passive therapeutics allows the claimant to believe that his pain generators can only be controlled with the application of passive clinical therapies. This belief system creates a fallacy that is counterproductive in obtaining the goal of return to work in the most expeditious and safe manner affordable to this claimant.

Records reviewed showed that the claimant was ready to return to work on 11/02/02. It is not clear why the provider failed to activate an early return to work with the management of this claimant's condition. Medical documentation reviewed shows little complexity to the claimant's low back condition. The benefits of active, patient-driven therapeutics are far more effective than the continued application of passive therapeutics on some 42 sessions from 12/18/02 through 05/10/03.

The aforementioned information has been taken from the following clinical guidelines of practice and/or peer referenced reviews.

•Aure O.F. et al. *Manual Therapy and Exercise Therapy in Patients With Chronic Low Back Pain: A Randomized, Controlled Trial With 1-Year Followup*. Spine. 2003, Mar 15; 28 (6): 525-31.

•Karjalainen K, et al. *Multidisciplinary Biocycle Social Relocation for Subacute Low Back Pain Among Working Age Adults*. Cochran Database Syst Rev. 2003; 2: CV002193.

•Schonstein M H P E d, E. et al. *Physical Conditioning Programs For Workers With Back and Neck Pain: A Cochran Systematic Review*. Spine 2003; 28 (19): E391-E395.

•Triano J J, et al. *Use of Chiropractic Manipulation in Lumbar Rehabilitation*. J Rehabil Res Dev. 1997 Oct; 34 (4): 394-404.

Sincerely,