

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. The dispute was received on 1-20-04.

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 the office visits, electrical stimulation, and therapeutic activities from 3/17/03 through 12/8/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

The following disputed dates of service were withdrawn by the requestor on May 26, 2004: 5/28/03 through 6/09/03 and 12/29/03 through 1/12/04

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 3/17/03 through 12/8/03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 3rd day of June 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 22, 2004

MDR Tracking #: M5-04-1410-01
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

The claimant, ____, allegedly received injury to her shoulder region as she was performing occupational duties for her employer on ____. The said injury occurred as she experienced difficulty in opening a drawer on an examination table. The claimant sought chiropractic care on that same day with ____ who diagnosed an acromioclavicular sprain and tenderness in the cervical spine. The claimant continued with chiropractic care and physical therapy from the date of injury until 6/04/01 and into 2002. Additionally, chiropractic care was continued with a change of chiropractic doctors, ____ who treated the claimant from 3/29/03 thru 1/12/04, per records received.

Requested Service(s)

Were office visits, electric stimulation and therapeutic activities medically necessary from 3/17/03 thru 12/08/03?

Decision

I agree with the insurance carrier that office visits, electric stimulation and therapeutic activity are not medically necessary.

Rationale/Basis for Decision

After reviewing all available documentation including the reasoning for continued care versus peer reviews to the contrary, one fact was definitely clear; the claimant's condition has remained in a subjective pain status, in spite of no real diagnostic support. Most cases that have required treatment beyond MMI and increased frequency beyond an occasional work related exacerbation condition, have demonstrated diagnostic severity and/or experienced some kind of surgical event to help establish its necessity. Here, however, there is an injury, apparently to the shoulder region, originally, with mild cervical involvement that is highly subjective and lacks diagnostic severity. It is probably fair to say that the pre-existing conditions demonstrated on the cervical MRI have complicated possible recovery but are by no means, injury related, according to the original description of injury and subsequent pain responses.

Obviously, it is difficult to reason, primarily due to the lack of diagnostic evidence and the original diagnosis of left shoulder strain/sprain with mild cervical involvement, that this claimant still requires this frequency of treatment, if at all.

Should it not be questioned as to precisely what the treatment (i.e. chiropractic adjustments) at this point is benefiting? Based only on the original diagnosis and diagnostic results, then this treatment has long since accomplished its benefit.

Should not the treating doctor wonder why the adjustments are needed so frequently and that the post corrected areas do not remain in a self maintained mode for extended periods, especially, if they truly are benefiting in a progressive manner and are they truly due to a strain/sprain injury that occurred 5-6 years ago.

I do agree with some of the comments made, based on treatment labor code 408.021, by the treating doctor, however, there are areas that need to be clarified.

First of all, it does state that an employee who sustains a compensable injury is entitled to all healthcare reasonably required by the nature of the injury. In this case, the nature of the injury was a strain/sprain to the shoulder area with mild cervical involvement, without diagnostic severity. By all appropriate care guidelines and supported by many articles and publications dealing with strain/sprain injuries, including the TWCC spine/extremity treatment perimeters, one would expect recovery with conservative care measures in 8-12 weeks. Logically, one can argue that it is not the original injury, nor the effects of, that are still being treated.

Pain itself is not a clear and definite reason for support of medical necessity without concise objective criteria for its cause. As time increases beyond the date of injury, the scrutiny for establishing necessity is greater and few conservative care modes of treatment are ever necessary, especially if the case is more subjectively based and especially since no real efficacy is demonstrated beyond possibly temporary relief of symptomatology in many cases.

Strictly speaking, relief care beyond MMI should demonstrate certain criteria to be considered necessary; it should demonstrate a decrease in pain levels of lasting quality, over time; it should demonstrate a decrease or total alleviation of pain medications; it should demonstrate documented increases in functional abilities and range of motion deficits of lasting quality and it should demonstrate its usefulness to help the claimant retain gainful employment.

Beyond this, scheduled relief care should be based on true documented work related exacerbation conditions, if the claimant is working. It is not regularly scheduled and should show progressive time periods between treatments if it is having any beneficial effect. It also does not include active type therapies. There is no documentation, either by treating doctor notes or claimant's response letter that reports the claimant is active in a home exercise program on a regular basis. Furthermore, it does not note the participation in self administered pain relieving techniques (i.e. cold/heat, relaxation techniques, etc.), that should be used on a regular basis if the claimant is still bothered by pain and in connection with the degenerative diagnosis. It is each claimant's responsibility to be a participant in their own recovery. This is established by the TWCC Spine and Extremity Treatment Guideline, used as a reference.

Again, there is no documented evidence that this is the case. It does appear however, that the claimant relies only on the regular scheduled treatments, at this time, as an avenue for subjective relief.

There was also continued mention of a _____, who apparently reported to the claimant that he thought she would never work again, however, there is no documentation to review from this doctor to support this claim (i.e. objective criteria). It is evident, by available diagnostic criteria that severity findings were not apparent in this case and it is a mystery as to why this opinion was made.

Therefore, the support for chiropractic conservative care from 3/17/03 through 12/08/03 is lacking, based on the following points.

- This case does not establish that this injury was of a severe nature, objectively or diagnostically. It is highly subjective in nature and is based mainly on pain responses by the claimant. That have not demonstrated any lasting quality or established the fact that the claimant could not work without treatment or at least less frequency of treatment, overtime.
- Daily treatment notes do not support any kind of progressive recovery, demonstrating only a “sometimes better, sometimes worse” assessment.
- The notes do not document any functional ability testing, strength testing or range of motion studies to monitor any progressive benefits, in light of frequency of visits.
- Subjective pain levels remain relatively consistent without any regards to lasting quality.
- The treatment notes from 3/17/03 through 12/08/03 report chiropractic manipulation to areas NOT specific to the original injury (i.e. thoracic, lumbar, elbow, wrist and even carpal bones) and not once was there documented chiropractic manipulation to the shoulder region, the main area of complaint, originally. Pain severity was even recorded to the right wrist area.
- The use of regular self-administered relief measures, including home exercise program is not demonstrated, to assist in decreasing the frequency of office visits.
- Objective criteria is mainly based on subjective claimant response and repetitive without any real changes, overtime and only objective trigger points are located, which are normally found in the everyday living activities of the general population.
- Nothing here suggests that there was any work related exacerbation conditions or acute responses to necessitate each visit. For the most part, they were regularly scheduled.
- It does NOT appear that this pain is related to the natural occurring effects of the original injury, as much as, possibly pre-existing complications (i.e. cervical degenerative involvement). This is obviously based on diagnostic rationalization and the fact of continued decreased range of motion and more bilateral cervical pain versus unilateral.

From purely a review basis it does appear that the weekly scheduled visits are more or less at a comfortable stage that may have lead more to a possible physician and treatment dependency, instead of more independence from its use.