

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 February 5, 2004.

Based on correspondence from the requestor, Dr. V, dated, 05-26-04, the fee issues for dates of service 08-11-03, 08-12-03, 08-13-03, 08-18-03, 08-19-03, 08-20-03 and 08-21-03, have been withdrawn.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of 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 office visits, joint mobilization, myofascial release, therapeutic exercises, electrical stimulation unattended, chiropractic manipulative treatment, manual therapy technique and mechanical traction from 08-01-03 through 08-07-04, also, the chiropractic manipulative treatment and therapeutic exercises from 08-14-03 to 08-26-03, 08-28-03 to 09-03-03, 09-05-03 to 09-09-03, 09-11-03 to 09-16-03, 09-18-03 to 09-23-03, 09-29-03 to 09-30-03, 10-02-03 to 10-14-03, 10-16-03 to 10-21-03, 10-23-03 to 10-28-03 and for 10-30-03 **were found** to be medically necessary. The neuromuscular re-education from 08-01-04 through 08-07-04 and manual therapy technique, electrical stimulation unattended, mechanical traction and neuromuscular re-education on 08-27-03, 09-04-03, 09-10-03, 09-17-03, 09-24-03, 10-01-03, 10-15-03, 10-22-03, and 10-29-03 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 27<sup>th</sup> day of August 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

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 07-29-03 through 10-30-03 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 27<sup>th</sup> day of August 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/pr

#### **NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** July 7, 2004

#### **AMENDED DECISION**

**MDR Tracking #:** M5-04-1630-01  
**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**

According to the documentation provided for review, the claimant suffered low back injury from lifting 25 pound containers of plastic during the normal course and scope of her employment with a local window or glass company on \_\_\_\_\_. The claimant reportedly presented to \_\_\_\_\_ who was noted to be the company doctor. The claimant reportedly was unsatisfied with treatment and changed treating physicians to \_\_\_\_\_ on or about 7/29/03. It appears the chiropractic management began on 7/29/03. The claimant has undergone voluminous amounts of chiropractic care and is now reportedly enrolled in a work hardening program. The claimant underwent a lumbar MRI evaluation and this revealed a 2mm noncompressive disc protrusion at L5/S1. The claimant did demonstrate improvement over a long period of time. The claimant did initially have some decreased sensation, as reported by the chiropractor, in the L3/4 and L4/5 distributions in the left leg. The claimant appeared to have some evidence of nerve root tension on the left; however, during the maneuvers the pain was restricted to the lumbar spine only. The claimant complained of some nonspecific muscular weakness in both her legs and her general pain drawing during the entirety of the documentation and injury seemed to indicate a localized pain in the low back and bilateral sacroiliac joints. The claimant underwent a designated doctor evaluation on 11/3/03 and the claimant was not felt to be at MMI. The claimant underwent an IME on virtually the same date as the designated doctor examination and the claimant was again not felt to be at MMI. The claimant was documented to be overweight; however, it appears that her actual weight was 135 pounds which would really not be considered overweight. The claimant reportedly had a history of diabetes. The claimant was reportedly felt to be at MMI on 7/4/03 and I assume this opinion was from \_\_\_\_\_ however, I am not exactly sure. At any rate, the claimant has undergone extensive amounts of chiropractic care to include manipulation, myofascial release, therapeutic exercises, neuromuscular re-education, traction, and electric stimulation.

## **Requested Service(s)**

The medical necessity of the outpatient services including manual therapy, chiropractic manipulative treatment, electrical stimulation unattended, neuromuscular re-education, therapeutic exercises, mechanical traction, office visits, joint mobilization and myofascial release during the dates of service to include 7/29/03 through 10/30/03, excluding 8/11/03, 8/12/03, 8/13/03, 8/18/03, 8/19/03, 8/20/03, and 8/21/03.

## **Decision**

I disagree with the insurance carrier and find that the some of the services were medically necessary for treatment of the compensable injury and I also agree with the insurance carrier and find that some of the services were not medically necessary. The specifics of this decision are laid out below.

**Table of Medically Necessary & Non-Medically Necessary Codes & Services**

<b>Date of Service</b>	<b>AUTHORIZED CODES</b>	<b>NON-AUTHORIZED CODES</b>
1. 7/29/03	All services MN (medically necessary) except for 97112	
2. 8/1/03	All services MN except for 97112	
3. 8/4/03	All services MN except for 97112	
4. 8/5/03	All services MN except for 97112	
5. 8/6/03	All services MN except for 97112	
6. 8/7/03	All services MN except for 97112	
7. 8/14/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
8. 8/25/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
9. 8/26/03	" "	" "
10. 8/27/03	All services not medically necessary due to 3 time per week rule	
11. 8/28/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
12. 9/2/03	" "	" "
13. 9/3/03	" "	" "
14. 9/4/03	All services not medically necessary due to 3 visits per week rule	
15. 9/5/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
16. 9/8/03	" "	" "
17. 9/9/03	" "	" "
18. 9/10/03	All services not medically necessary due to 3 visits per week rule	
19. 9/11/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
20. 9/15/03	" "	" "
21. 9/16/03	" "	" "
22. 9/17/03	All services not medically necessary due to 3 visits per week rule	

23.	9/18/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
24.	9/22/03	"	"
25.	9/23/03	"	"
26.	9/24/03	All services not medically necessary due to 3 visits per week rule	
27.	9/25/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
28.	9/29/03	"	"
29.	9/30/03	"	"
30.	10/1/03	All services not medically necessary due to 3 visits per week rule	
31.	10/2/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
32.	10/6/03	"	"
33.	10/7/03	"	"
34.	10/8/03	"	"
35.	10/13/03	"	"
36.	10/14/03	"	"
37.	10/15/03	All services not medically necessary due to 3 visits per week rule	
38.	10/16/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
39.	10/20/03	"	"
40.	10/21/03	"	"
41.	10/22/03	All services not medically necessary due to 3 visits per week rule	
42.	10/23/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN
43.	10/27/03	"	"
44.	10/28/03	"	"
45.	10/29/03	All services not medically necessary due to 3 visits per week rule	
46.	10/30/03	98941, 97110 okay	97140-59, G-0283, 97012, 97112 not MN

Again, the 97112 code was not documented and would not have been considered medically necessary anyway. The type of lumbar traction (97012) was not documented; however, would be considered generally medically necessary as a passive modality in this case through 8/13/03. Passive modality treatment such as G-0283 would not be considered medically necessary beyond 8/13/03. Myofascial release and joint mobilization were reportedly performed using the same code of 97140-59 and these were not documented either; however would have generally been considered medically necessary through 8/13/03. Joint mobilization and manipulation are similar and should not be performed on the same date of service.

### **Rationale/Basis for Decision**

The documentation suggests that the claimant received no benefit from \_\_\_ care and changed treating physicians to \_\_\_ on or about 7/29/03. At the very least, a trial of chiropractic care would therefore be considered reasonable and medically necessary due to lack of the claimant's response to treatment through 7/29/03. The chiropractic documentation revealed the claimant received about 52 chiropractic and related physical therapy visits through 10/29/03 and this likely went on beyond this date because the claimant was approved in April or May 2004 for a work hardening program. The preponderance of the medical documentation indicates that, contrary to \_\_\_ opinion, the claimant suffered a sprain/strain injury that may or may not have irritated some of the lower discs of the lumbar spine. \_\_\_ has suggested that the claimant has leaky discs and internal disc disruption. The MRI revealed that the discs were well hydrated and there was no evidence of annular tears. While it is true that internal disc disruption without obvious MRI evidence of protrusion or herniation is a major cause of back pain and vague radicular symptoms as this claimant appeared to have, it is also true than an extensive amount of care is not needed for management of these conditions. This claimant underwent 52 visits of chiropractic related physical therapy and chiropractic care through 10/29/03, yet it was determined on several occasions well beyond this extensive amount of treatment that the claimant was deconditioned and needed more treatment. This claimant never demonstrated hard evidence of lumbar radiculopathy and she never demonstrated evidence of intermittent radiculopathy or other evidence of a leaky deranged disc as \_\_\_\_\_ has suggested she has. I will not argue that the claimant has improved; however, given the extensive amount of treatment, the amount of improvement pales in comparison. In other words, the amount of improvement from an objective point of view did not substantiate the extensive amount of care and the claimant very likely could have sustained equal amounts of benefit with less intensive and less frequent care. The highly evidence based Official Disability Guidelines recommend about 6-8 weeks of treatment at 3 times per week for management of lumbar sprain/ strain injuries and the Official Disability Guidelines also recommend a trial of care of anywhere from 6-12 visits to evaluate the effectiveness of the chiropractic care. The ACOEM guidelines provide similar recommendations. The nature and extent of the documented injury did not support the level and intensity of the treatment provided during the range of disputed services. Passive care in the form of joint manipulation/myofascial release and electric stimulation also went on unnecessarily way beyond the acute stage of the injury when the focus of care should have been on functional active recovery. Instead the claimant is just now involved in a work hardening program well over 9-10 months after the initiation of chiropractic care. Joint manipulation and chiropractic manipulation are very similar and need not be performed on the same visit.

For the above mentioned reasons, no more than 3 visits per week would have been considered reasonable or medically necessary as the same results could have occurred with 3 visits per week rather than 4 visits per week which occurred for an extended amount of time. In this particular case, the claimant was seen 4 times per week from 8/4/03 through 10/23/03 representing about 12 weeks of treatment during the disputed dates of service. The claimant was essentially seen Monday, Tuesday, Wednesday, and Thursday during the disputed dates of service. Either Wednesday or Thursday could be chosen as not medically necessary. For the purposes of this review, Wednesday has been chosen. As previously mentioned, passive care was mostly unwarranted, therefore the G0283 codes should not be allowed beyond the first 2 weeks of the chiropractic care which began on 7/29/03. This would make the G0289 code for electric stimulation no longer medically necessary in accordance with the medical literature on the subject of passive care beyond 2-4 weeks in acute care situations. This would make the G0283 code no longer reasonable or medically necessary at and beyond 8/13/03. Myofascial release and joint mobilization were both reportedly billed as 97140-59 and these passive modalities would not be considered medically necessary for the extent of the injury beyond 8/13/03 as well. The claimant clearly needed chiropractic manipulation and active therapy, not electric stimulation, joint mobilization and myofascial release. The neuromuscular re-education code of 97112 would also not be considered reasonable or medically necessary in its entirety. There was no documentation provided for review that supported this claimant's movement, balance, coordination, kinesthetic sense, posture or proprioception needed to be fixed or addressed as part of the compensable injury. It must also be remembered that the chiropractic documentation including the daily notes and the claimant's own pain drawings mentioned nothing about what therapy was occurring to this claimant on a day to day basis. It appears in reality that a whole lot of therapy was thrown at this claimant in an effort to receive maximum reimbursement. The chiropractic letter of 5/17/04 listed the modalities and treatment the claimant received; however, there was no correlation between the need for this treatment and the claimant's specific condition. The remaining codes and treatment that were billed including the 98941 code as well as all 97110 codes at and beyond 8/13/03 through the end of the disputed dates of service would be considered reasonable and medically necessary at a 3 time per week treatment frequency.

To summarize, the neuromuscular re-education code of 97112 would not be considered medically necessary and substantiated given the nature and extent of the injury. The G0283 code would not be considered medically necessary at or beyond 8/13/03 and would have been considered reasonable at 3 times per week prior to this date. The 97140-59 code, which reportedly was billed for myofascial release and joint mobilization, was not reasonable or medically necessary at or beyond 8/13/03 and would have been okay at 3 times per week prior to 8/13/03. All 97110 codes and 98941 codes would be considered reasonable and medically necessary at 3 times per week through the entirety of the disputed dates of service. The 97265 and 97250 codes were used only once on 7/29/03 and only represented a nonspecific therapeutic procedure that was not documented and would not be considered medically necessary to be used in conjunction with the 97110 active code that was also used on the same date. The 97012 code was used on virtually every date of service except for 7/29/03. This modality was also poorly documented as to whether or not it was axial or decompressive lumbar traction or if it was simply intersegmental traction or a roller table. At any rate, this is a passive code and was no longer warranted beyond the 8/13/03 date for the same reason that the other passive codes were not medically necessary. Again, this code would only be considered reasonable and medically necessary at 3 times per week prior to 8/13/03.

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 23<sup>rd</sup> day of August 2004.