

MDR Tracking Number: M5-04-1656-01

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. The dispute was received on 2-06-04.

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** 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, x-ray (lumbar spine), electrical stimulation, ultrasound, myofascial release, hot/cold packs therapy, radiologic exam (whole procedure), manual therapy, and mechanical traction from 7/31/03 through 10/24/03 were 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 24th day of May 2004.

Regina L. Cleave
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 7/31/03 through 10/24/03 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 24th day of May 2004.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division
DRM/rlc

April 30, 2004

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IRO Certificate # 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

____ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ____.

CLINICAL HISTORY

____, a 50-year-old male, sustained injuries to his neck and lower back while at working for _____. He was carrying a sheet of sheetrock weighing approximately 150 lbs., attempting to maneuver it into an elevator when he injured his back as a result of straining in an awkward position. He presented to _____, a chiropractor, for conservative management starting 7/31/03. At the time he was complaining of low back pain, extending into the left leg to the foot, along with some neck and arm pain. _____ impression following exam, which included plain film x-rays, was of lumbar sprain/strain with discopathy and radiculitis, and cervical pain. He was placed on a comprehensive conservative treatment régime with passive care for 11 treatments, with the introduction of exercises by mid-August 2003. This progressed to an exercise only program in mid-September. Care was discontinued on 10/24/03. X-rays revealed reduction in the disc space at L4/L5 and L5/S1. MRI of the lumbar spine was ordered on 8/11/03 and revealed a herniated disc with anterior listhesis at L4/L5 with considerable foraminal stenosis on the left and a herniated disc at L5/S1. MRI of the cervical spine revealed multiple disc herniations: at C3/C4 there was a 3 mm herniation with 60% neuroforamina stenosis on the right, at C4/C5 a 4 mm herniation with indentation on the thecal sac, and at C5/C6 there is a 4 mm paracentral disc herniation, at C6/C7 there is a 3.5 to meet the central disc herniation again compressing the spinal cord, predominantly on the right. Between C4/C5 and C6/C7 all levels evidenced a 60% neuroforamina stenosis on the right and a 40% stenosis on the left. The patient was seen independently for pain management evaluation on 8/21/03 by _____. At that time the patient was complaining of 7/10 level pain, with neck pain radiating into the right upper extremity and associated numbness/tingling all way to the digits. He had pain across the lumbar spine

area radiating to bilateral anterior thigh and bilateral inguinal area including the testicles. Assessment was of lumbar discogenic pain with radiculopathy and facet syndrome and bilateral sacroiliitis.

Cervical discogenic pain with radiculopathy and facet syndrome along with myofascial pain syndrome. Recommendations were to continue rehabilitation chiropractic manipulation, a prescription of Ultracet and Celebrex and a topical pain gel.

Electrodiagnostic studies were performed on 9/2/03, consisting of motor and sensory nerve conduction velocities of the bilateral upper extremity. This revealed findings suggestive of possible left C5/C6 radiculopathy. Patient declined EMG/NCV of the lower extremities. Follow-up with ___ on 9/11/03 showed a reduction in level of pain. Lumbar ESI injections were recommended, apparently denied by the carrier. Follow-up in 10/6/03 again showed continued improvement and recommendations for continued chiropractic care and rehabilitation. The patient was seen on 10/24/03 by ___ designated doctor purposes. He found that the patient was not at MMI and recommended continued care. MMI was predicted around December 2003.

REQUESTED SERVICE (S)

Medical necessity of office visits, x-ray lumbar spine, electric stimulation, ultrasound, myofascial release, hot/cold packs therapy, radiologic exam (whole procedure), manual therapy, mechanical traction 7/31/03-10/24/03.

DECISION

Approved. There is establishment of medical necessity for all therapeutic procedures performed.

RATIONALE/BASIS FOR DECISION

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

The documentation described above establishes that the care provided satisfies all of the above three mandates of medical necessity. There is progression / response to treatment, with appropriate deviation to the program as improvement was obtained. The patient was independently evaluated by a pain management doctor and a designated doctor who both felt that there was improvement and recommended continuation of care.

Records did not include credible rationale at all to have been provided by the carrier as to why this claim was denied for medical necessity.

In conclusion, the care appears to have been provided well within the parameters of current clinical standards.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more

information becomes available at a later date, an additional report may be requested. Such may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical probability and are totally independent of the requesting client.