

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 11, 2004.

The 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, joint mobilization, myofascial release, traction, manual therapeutic exercises, and work hardening program were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the treatment listed above were not found to be medically necessary, reimbursement for dates of service from 04-30-03 to 07-14-03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 14th day of April 2004.

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

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 5, 2004

RE: MDR Tracking #: M5-04-1699-01
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 struck or knocked down by another employee during the normal course and scope of his employment at ___ on ___. The claimant initiated chiropractic care on or about 2/21/03 with _____ and underwent voluminous amounts of treatment. The claimant has also seen _____ and several of his examinations and reports were reviewed. The claimant has also undergone an MRI evaluation which reportedly showed a small 2-3mm posterocentral central herniation at the L5/S1 level which contacted but did not indent the thecal sac. There was no mention of foraminal or canal stenosis whatsoever. The claimant mainly seemed to have low back pain, although he did complain of occasional neck pain. The claimant saw _____ for RME purposes on 7/1/03. It was felt the claimant could return to work without restrictions on 7/15/03. According to ___ the claimant was reportedly told by his treating chiropractor, who in this case was ___, that a long time would be needed for him to recover. The claimant underwent lower extremity electrodiagnostic testing which was normal for lumbar radiculopathy on 6/4/03. The claimant saw _____ on 10/24/03 for designated doctor evaluation purposes and was found to be at MMI on that date with 0% whole body impairment rating. At this time the claimant was only complaining of mid-back discomfort. It appears ___ diagnosed the claimant with a lumbar herniation based simply on an MRI finding and not the clinical exam findings _____ mentioned that the claimant had undergone physical therapy for approximately 6 weeks as of 4/22/03. ___ never documented the presence of radicular signs or symptoms. There was never any evidence of nerve root tension or neurological losses; however, ___ diagnosed the claimant with a lumbar herniation despite the essentially normal clinical exam findings. According to the documentation, the claimant was involved in his 4th week of work hardening as of about 6/16/03 which would indicate to me that he began work hardening sometime in mid-May 2003. The claimant was documented to be required to function at the heavy duty level; however, there was other documentation provided for review that is undated and from an unknown source that states that the claimant's required level of function was at the medium duty level. An FCE of sorts of 5/14/03 and 6/11/03 was reviewed. The claimant underwent unnecessary spinal digital imaging on 3/25/03. The claimant's lumbar range of motion was documented to range anywhere from 84% to 130% of normal. An MRI of the cervical spine was done and this was essentially normal. The claimant consulted with _____ on 7/1/03 for the possibility of manipulation under anesthesia to the low back, and ___ recommended that this be done. I found it interesting that after 6 weeks of work hardening as of 7/2/03 the claimant's pain experience scale was listed to be an 8-9/10 which is severe, his Roland Morris disability index was listed to be crippling. The revised Oswestry disability questionnaire for the low back revealed him to have a severe self perceived disability. The claimant's pain disability index revealed him to also have a severe self perceived disability. The Beck Depression Inventory score was 24 which is moderate to severe, and his anxiety levels were also noted to be severe.

Requested Service(s)

The medical necessity of the outpatient services to include office visits, joint mobilization, myofascial release, traction, manual therapeutic exercises, work hardening program for the dates of service to include 4/30/03 through 7/14/03

Decision

I agree with the insurance carrier and find that the services in dispute are or were not medically necessary.

Rationale/Basis for Decision

It was quite clear that by 4/22/03 the claimant had undergone 6 weeks of physical therapy which would be the sufficient amount of physical therapy required given the nature of the documented injury. The clinical documentation continuously and consistently showed the nature of the work related injuries were of the myofascial sprain/strain variety. The small central herniation at the L5/S1 level as reported on the lumbar MRI report was noncompressive and was of no documented clinical consequence either subjectively or objectively.

Much of the treatment to include the treatment itself, the diagnostic tests, the radiographic digital imaging techniques and the electrodiagnostic work ups were completely unwarranted based on the nature of the documented injury and the repeated clinical documentation that suggested the mere presence of myofascial sprain/strain and contusion injury. The chiropractic diagnoses were somewhat exaggerated compared to what the rest of the evaluating physicians documented. The claimant never demonstrated evidence of adverse nerve root tension and did not complain of lumbar radicular symptoms. The claimant remained completely neurologically intact to include reflex examinations, sensory examinations and strength examinations. The examinations from ____, ____ and ____ never showed objective findings or subjective complaints of lumbar radiculopathy. The diagnoses were listed to be of the sprain/strain variety and only after the MRI was performed did ____ decide to diagnose the claimant with lumbar herniation even in the presence of a normal clinical neurological exam. In addition the chiropractic documentation of 4/30/03 listed the claimant's neck pain to be a 1/10 and the low back pain to be a 3/10. This continued to be the same through October 2003. The FCE reports of 5/14/03 and 6/11/03 did reveal some mild improvements; however, this did not justify a program, specifically the work hardening program, that was not justified in the first place given the mechanism of injury and type of injury sustained. The FCEs also contained no grip strength analyses and there was very little validity testing done. Some activities were not done on the first FCE which were done on the second FCE making comparisons difficult to make. Like the rest of the diagnostic work up in general, the FCEs did not contribute or enhance the claimant's overall treatment plan and prognosis. The clinical documentation strongly suggested that this particular injury could have been properly managed within a 4-6 week passive and active physical therapy program in accordance with the recommendations of the highly evidence based Official Disability Guidelines for management of these particular conditions. Please also consider that the claimant's self perceived low back disability score actually worsened from a 28% on 5/14/03 to a 54% on 7/2/03 and this would be after about 6 weeks of work hardening. The claimant's Roland Morris disability index was in the crippling category and many of the other behavioral assessments also showed him to have a severe or crippling disability. According to _____ report of 7/1/03, this 21 year old otherwise healthy claimant was told by his chiropractor that a long time would be needed for him to recover and this is a dangerous thing to tell a claimant, especially one who is 21 years of age. Given the nature of this injury and the subsequent clinical documentation, it is simply not reasonable and customary that an intensive work hardening program be needed and the overall documentation suggested that this intensive program was not medically necessary given the nature of the injury.