

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, 133.307 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.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the dates of service in dispute. The Commission received the medical dispute resolution request on 04-12-04, therefore the following dates of service are not timely: 4/09/03 and 4/10/03.

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, joint mobilization, therapeutic exercises, Myofascial release, manual traction, neuromuscular re-education, physical performance examination rendered from 4/14/03 through 5/27/03 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 Medical Review Division has determined that **medical necessity was not the only issue** 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 July 26, 2004, the Medical Review Division submitted a Notice to 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 99080-73 on 4/29/03 with a V for unnecessary medical treatment based on a peer review, however, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter and therefore recommends reimbursement in the amount of \$15.00 in accordance with the 1996 Medical Fee Guidelines.

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 date of service 4/29/03 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 Decision and Order is hereby issued this 30th day of September 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

July 14, 2004

Amended letter 07/28/04

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: Injured Worker:
MDR Tracking #: M5-04-2488-01
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. TMF's health care professional 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 TMF 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

This patient sustained a work -related injury on ___ when she was driving a van and went across four lanes of traffic, hitting the median. She was treated in the emergency department at ___ Hospital for stabbing and aching pain in the lumbar region. The patient underwent chiropractic care in the form of office visits, joint mobilization, therapeutic exercises, myofascial release, manual traction, neuromuscular reeducation, physical performance examination and required report (TWCC-73) billed from 04/14/03 through 05/27/03.

Requested Service(s)

Office visits, joint mobilization, therapeutic exercises, myofascial release, manual traction, neuromuscular reeducation and physical performance examination billed from 04/14/03 through 05/27/03.

Decision

It is determined that the office visits, joint mobilization, therapeutic exercises, myofascial release, manual traction, neuromuscular reeducation and physical performance examination billed from 04/14/03 through 05/27/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The patient began a course of chiropractic treatment with another chiropractor on 12/09/02 and she complained of lower back pain rated at 8/10 and neck pain rated at 5/10. She was treated by the chiropractor on the following dates with joint mobilization, electrical stimulation, hot/cold packs, mechanical traction, and myofascial release:

Dec 02: 9,10,11,12,13,17,23,24,26,27,30,31

Jan 03: 2,3,7,8,13,15,16,20,31

Feb 03: 3,5,12

The patient underwent a required medical evaluation by an orthopedic surgeon on 01/03/03 and no further treatment, medical or chiropractic, was recommended. The patient went to another chiropractor on 02/19/03 for evaluation and treatment and she complained of neck pain, mid back pain, and lower back pain. The progress notes indicated that the patient was treated with office visits, joint mobilization, manual traction, myofascial release, neuromuscular reeducation, and therapeutic exercises on the following dates:

Mar 03: 19,20,26,27,28

Apr 03: 1,9,19,14,16,17,23,29

May 03: 5,6,7,19,21,27

The office visits, joint mobilization, therapeutic exercises, myofascial release, manual traction, neuromuscular reeducation and physical performance evaluation billed from 04/14/03 through 05/27/03 were not medically

necessary due to the lack of observable response to the treatments rendered by the chiropractor in the first few weeks of treatment. The patient had an adequate trial of chiropractic treatment on two occasions from 12/09/02 through 02/05/03 and from 03/19/03 through 04/10/03. An adequate trial of care is defined as a course of two weeks each of different types of manual procedures (4 weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated (Haldeman, S., Chapman-Smith D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993). The patient has had a protracted course of care in excess of the parameters delineated by the above mentioned document and did not demonstrate a favorable response to treatment.

Chiropractic literature indicates that little is to be gained from prolonged courses of chiropractic care if there has not been adequate response in the first month of care. Bronfort (Bronfort, G., "Chiropractic treatment of low back pain: A prospective survey", JMPT, 9:9-113, 1986) found that there is little improvement occurring in patients who responded poorly to the first month of care. The maximum benefits of manipulation are realized in the first month of care in the majority of patients, with diminishing returns after the first month of treatment. A review of the progress notes from the first month of care revealed little change in the patient's condition in spite of the care rendered by the chiropractor.

Sincerely,