

MDR Tracking Number: M5-04-2512-01

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 04-08-04.

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 neuromuscular re-education, therapeutic exercises, therapeutic activities and chiropractic spinal manipulation 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 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 from 10-08-03 to 01-20-04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 25th day of June 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Date: June 18, 2004

RE:

MDR Tracking #: M5-04-2512-01

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.

Submitted by Requester:

- Assorted treating doctor SOAP notes by _____ of _____ for dates of service 10/8/03, 10/9/03, 10/13/03, 10/15/03, 10/20/03, 10/21/03, 10/22/03, 11/3/03, 11/5/03, 11/10/03 and 1/20/04 (11 total).

Submitted by Respondent:

- Assorted ER records from _____ dated 7/31/03, _____ treating physician, including; ER dept record, nurses notes, initial findings, physical exam, treatment records, low back pain/injury form, disposition summary, admission signature page, universal, consent for treatment, release of records/information form, notice of privacy practices and finally request of lab, imaging and secretarial sheet.
- AMRAS release service request form.
- _____ medical records request form dated 7/31/03.
- Initial exam report by _____ dated 8/01/03.
- _____ exam sheet and accompanying medical history, patient face sheet with DME (lumbar brace, gel pack, BioFreeze) script and patient information dated 8/01/03.
- Assorted TWCC-73's dated 8/01/03, 8/15/03, 8/22/03 and 8/26/03 (4 total).
- Initial exam/chart note by _____ dated 8/01/03 with accompanying chart notes dated 8/07/03 and 8/29/03.
- X-ray report of the lumbar spine dated 8/01/04 by _____.
- MRI report of the lumbar spine performed on 8/04/03 by _____.
- RTW approval to light duty on 8/08/03 by _____.
- Follow up exam report dated 8/15//03 by _____.
- Active rehab form, exercise program status report and progress notes from _____ for DOS 8/18/03, 8/19/03 and 8/20/03.
- EMG report performed 8/20/03, from Neuro EMG, _____, and _____.
- Assorted treating doctor SOAP notes by _____ dated 8/26/03 through 11/03/03 (20 total).
- Treating doctor status/progress letter to carrier dated 9/29/03 by _____.
- Treatment plan and protocol with fax cover sheet from _____ to carrier, dated 10/01/03.
- Assorted EOB statements from ___ for DOS, 10/08/03, 10/09/03, 10/13/03, 10/15/03, 10/20/03, 10/21/03, 10/22/03, 11/03/03, 11/05/03, 11/10/03, and 1/20/04.
- Peer Review by _____ for Review Med dated 11/20/03.

Clinical History

The claimant allegedly received injury to the low back region while performing occupational duties on _____. The said injury, resultant of an alleged lifting incident, apparently, in which the

claimant bent forward, in order to lift up to open a truck/trailer door, causing a “pop” and the immediate onset of low back pain, with subsequent radicular pain.

On that same day, 7/31/03, the claimant entered into initial treatment via the ER department at _____, where he was treated and released, also on that same day, with the diagnosis of; (1) lumbar strain and (2) overexertion and strenuous movements by _____ (ER doctor on duty).

An initial exam was performed on 8/01/03 by _____ who apparently referred the claimant to the _____ per initial exam form, with accompanying misc. reports (i.e. Alpha exam sheet and accompanying medical history, patient face sheet with DME (lumbar brace, gel pack, BioFreeze) script and general patient information), all dated 8/01/03.

Performed on 8/01/03, x-ray report of the lumbar spine revealed prior back injury per report by _____

The MRI study of the lumbar spine performed on 8/04/03 by _____ revealed degenerative disc disease; inclusive of L4-L5 lumbar hypolordosis with an 3.5 mm focal posterior central disc substance herniation effacing the thecal sac and a L5-S1 with non-indenting thecal sac effacement.

Continuing the search for rehabilitation and aide in pain management, the claimant then referred to _____, per chart notes dated 8/07/03 and 8/29/03.

Per TWCC-73 submitted for this review, the claimant was released for return to work; which had approval / verification as such, or about 8/08/03, with restrictions, however, to a modified / light duty and finally, released to work on 8/26/03 to Full Duty Status (without restrictions).

Active rehab form, exercise program status report and progress notes from _____ for dates of service 8/18/03, 8/19/03 and 8/20/03.

EMG report performed 8/20/03, from Neuro EMG, _____ and _____.

Assorted treating doctor SOAP notes by _____ dated 8/26/03 through 11/03/03 (20 total).

Peer Review by _____ for Review Med dated 11/20/03 concurs with the carrier that continued care beyond 8/26/03, is unreasonable and unnecessary.

On 8/26/03, the claimant apparently continued to seek treatment through chiropractic conservative care with yet another doctor, _____ who proclaimed the claimants eligibility to return to work without restrictions on 8/26/03.

Requested Service(s)

Please review and address the medical necessity of the outpatient services to include; neuromuscular re-education, therapeutic exercises, therapeutic activities, and chiropractic spinal

manipulation (98941) for dates of service from 10/08/03 thru 1/20/04 for the above mentioned claimant.

Decision

I agree with the insurance company and find that evaluation/management code 97112 (neuromuscular re-education), 97110 (therapeutic exercise), 97530 (therapeutic activities) and 98941 (spinal manipulation) were not medically necessary for dates of service 10/08/03 through 1/20/04.

Rationale/Basis for Decision

After a thorough review of all documentation provided (records received and reviewed section), I did not find a demonstrable need for continued clinically supervised treatment for the dates of service in question. The treating doctor offered no new objective evidence to provide a basis as to why this treatment was necessary or any changes in regards to the treatment protocol to establish progress gain, which apparently continued at least through 1/20/04.

The treatment notes do not provide quantifiable objective criteria (i.e. range of motion in measurements, manual muscle testing demonstrating progressive changes, functional ability deficits, etc.). Purely from a documentation point of view, the evidence does not support this continued treatment. Case in point;

- The MRI did demonstrate pre-existing degenerative disc findings including facet changes and this was apparently verified by the claimant and reported on several examining physician reports.
- The electrodiagnostics did not demonstrate strong solid evidence (especially, EMG), of radiculopathy and was therefore, not conclusive.
- The claimant did experience previous lumbar injury, to what exact extent was no known, however, it was reported to include disc herniation(s).
- The claimant was return to work on 8/26/03 without restrictions and this was a request by the claimant, also.

This fact alone (return to work), raises some questions about the necessity of treatment. If the claimant were demonstrating functional deficits, then one would think some restrictions would apply. Furthermore, the necessity for active rehab in a clinically supervised setting is not supported in a return to work without restriction mode and the claimant should be quite capable to be independent with a home exercise program.

Per, TWCC Spine and Extremity Treatment Guideline*, used as a reference, the purpose of active rehab is to expedite a return to work status. However, once that is initiated the indication for use of regularly scheduled active type therapy in a supervised setting is not appropriate

- A secondary examining physician also reports recommendation of return to work as early as 8/15/03, verifying the claimants continued improvement at that point.
- No work related exacerbation or flare-up conditions are reported to warrant this need for treatment.
- The claimant had at least a 4-week period to acclimate to regular duties after the 8/26/04 return, and prior to the dates of service in question.

- No alterations to this return to work status, or return to off duty was reported, to demonstrate a need for regularly scheduled rehab or treatment.
- It was not apparent that this treatment was needed to help the claimant retain gainful employment and that increased benefit was established over that of a self-administered home exercise program, at that point.
- There is no evidence that this treatment was addressing any functional weakness deficit beyond remnant subjective pain complaints that were not able to be reviewed (either, no visual analog scale level reported on some dates of service or when occasionally reported, range of motion appeared to be in the mild ranges) and that in all likelihood, are attributed to these diagnosed pre-existing complicating factors.
- Generalized statements such as, range of motion is improved or the claimant felt better after treatment. Range of motion must be in degrees and demonstrate progress. Manual muscle testing must also be reported and functional deficits must be established and assessed.
- Observing the occasional visual analog scale pain level through this timeframe, does not reveal any real subjective lasting progressive benefit.

The possibility that this claimant suffered a lumbar strain/sprain injury and that remnant pain complaints / symptomatology, due to pre-existing complications are, in all medical probability, high; and that a 6-8 week period from initial date of injury would be a logical time frame for strain/sprain injury recovery based on the objective evidence presented.

No reasons were given, as to why this claimant could not have self-managed any remaining symptomatology after 4 weeks post return to work or why continued treatment was still necessary (occasional pain levels at 3-4 on the visual analog scale can usually be self managed, especially, when they have reached a stable point).

It is unfortunate that the claimant is still complaining of subjective pain effects, however, this review did not reveal overwhelming evidence for a continuation of treatment for dates of service 10/08/03 through 1/20/04.

I hope that these answers and opinions are helpful in the decision process of the above named claimant.

This IRO review is based only on documentation as recorded in the records reviewed. It is assumed by the reviewer, that this documentation is free of untruthful, incomplete, or incorrect reporting. This reviewer is also aware of the possibility that certain documentation may not have been available for review. Therefore, speculations on certain events may have been made in this report, conducive to similar cases in general practice regarding standards of care, current research updates, managed care guidelines, case history outcomes, past and current research literature, etc, which were used as a guideline.

It is the sole responsibility of the provider to establish necessity for care by providing supporting documentation and this reviewer cannot be held responsible, if unknowingly to the fact, concerning the above assumptions or lack of documentation, renders a decision or opinion based on what is presented. However, these opinions do not constitute per se, a recommendation for specific claims or administrative functions to be made or enforced.

I appreciate the opportunity to assist in the record review of claimant.

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 22nd day of June 2004.