

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. This dispute was received on 4-23-04.

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 office visits (with and without manipulation), therapeutic exercises, massage, chiropractic manipulative treatments, mechanical traction, manual therapy techniques, neuromuscular re-education, and ultrasound services rendered from 7/28/03 through 1/22/04 and were denied with a "V" code 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 October 25, 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.

CPT codes 99080-69 and 99455 for date of service 11/26/03 were denied by the carrier with "V" –not medically necessary per peer review. In accordance with Rule 130.1, these are Commission required reports and forms and are not subject to IRO review. However, the requestor did not submit reconsideration EOBs or convincing evidence of carrier receipt of request for reconsideration in accordance with Rule 133.307 (g)(3)(A). Therefore, **reimbursement is not recommended**.

CPT codes 97035, 97140, 98940, and 99212 for date of service 11/30/03 were denied by the carrier, however, review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. Also, the requestor did not submit convincing evidence of carrier receipt in accordance with Rule 133.307 (e)(2)(B). Therefore, **reimbursement is not recommended**.

The request for reimbursement is denied as outlined above, and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 7th day of December 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

**NOTICE OF INDEPENDENT REVIEW DECISION
SECOND AMENDED DECISION**

Date: October 20, 2004

RE:

MDR Tracking #: M5-04-2653-01
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:

- Several subsequent chiropractic re-evaluations from _____ dated 5/11/03, 8/5/03, 10/6/03, and 1/7/04
- Daily chiropractic notes from _____ dated 7/28/03 through 1/22/04 for 19 visits
- Several prescriptions for post procedure therapy from _____, _____ dated 10/1/03, 11/18/03, 9/2/03 and 12/17/03. These were not the actual dates of the prescriptions; however, these were the dates of the reported injections and it should be noted that the body area of injection was not included in any of the documentation.
- Several follow up visits from _____ with _____ dated 12/12/03, 11/14/03, 9/26/03, 8/29/03 and 8/1/03
- Letter of medical necessity from _____ dated 7/11/03 for cervical facet injections
- Several follow up progress notes from _____ dated 6/27/03, 5/16/03, 3/28/03, 1/17/03, 2/21/03, and 5/16/03
- Right knee MRI report of 2/8/03
- Left shoulder MRI report of 2/8/02
- Cervical discogram and post discogram CT report of 1/13/04
- Orthopedic consultation report from _____ of 5/13/02
- Electrodiagnostic report from _____ dated 5/14/02. This was an electrodiagnostic report of the upper extremities.
- An IME report from _____ of 9/29/03
- Follow up note from _____, neurologist, dated 10/3/03
- Follow up note from _____ of 12/5/03
- Table of disputed services which run from 7/28/03 through 1/22/04

Submitted by Respondent:

- None provided

Clinical History

It appears the claimant suffered an alleged work related injury when he slipped and fell onto his left side on a wet ceramic tile floor during the normal course and scope of his employment as a car salesman on _____. He underwent quite a bit of initial evaluation and treatment, and it is unknown when exactly the claimant began chiropractic care with _____; however, chiropractic care from what I can gather has been ongoing since at least February 2002. The claimant has received lumbar facet injections, lumbar epidural steroid injections and a sacroiliac joint injection. He has also received cervical epidural steroid injections. Four more injections were administered from September 2003 through December 2003; however, nowhere in the submitted documentation does it state where these injections occurred. There was a letter of medical necessity dated 7/11/03 from _____ which was in regard to trying to get approval for cervical diagnostic facet injections, so maybe the injections occurred to the cervical spine. It should be noted that the prescriptions, which were written by _____, who is in _____ office, were pre-scripted meaning that the signatures were identical during the 4 dates when post procedure physical therapy was prescribed. This means that the prescriptions were already made beforehand and even _____ name at the top of each prescription is exactly the same as written. I think this is fairly significant. As far as the overall sequence of care and what type of therapy and management the claimant has had, the claimant has seen _____ who read the cervical MRI report. The claimant has also seen _____ in May 2000. The claimant underwent a bone scan which was reportedly normal. The claimant also saw _____ in November 2000. The claimant has undergone a reported discogram involving the lumbar spine and cervical spine. The claimant has undergone MRI evaluations of the shoulder and knee. The claimant saw _____ in March 2001 for an RME. _____ impressions were made on the basis of degenerative disc disease only. The claimant was seen at the _____ facility. The claimant has been involved in at least 3 motor vehicle accidents, 2 of which occurred in 1996 and one which occurred in October 1959. The claimant is about 57 or 58 years of age and has well documented degenerative problems in his lumbar and cervical spine as well as about his knees and shoulders. The IME of 9/29/03 revealed that the claimant seemed not to have responded to any modality including physical therapy, the attention of the physical medicine/rehabilitation specialist, the epidurals or the chiropractic manipulations. The IME report further states that he would be best served to begin to orient as regard to the future of his being able to function and work. It further states that adaptation to his circumstance seems prudent. The report further states that further care would not be able to fix the multiplicity of the dysfunctional areas that he reports being problematic on the basis of the arthritic involvement/deterioration on the basis of degenerative arthritic involvement of the axial spine. It was felt the claimant would not benefit from surgical care and he would be best served by accomplishing a regimented exercise program and a weight reduction program. It was felt the claimant could return to his usual work as an automobile salesman. It should be noted that some of the earlier documentation soon after the injury revealed that of a sprain/strain injury. After all, the claimant simply fell down. The claimant now has a chronic left 5th finger problem, bilateral knee problems, a shoulder problem, bilateral carpal tunnel

syndrome, along with cervical and lumbar radicular problems and facet disease as a result of simply falling down.

Requested Service(s)

99211, 99212, 99213-Office visits and office visits with manipulation, 97110-Therapeutic Exercises, 97124-Massage, 98940, 98941, 98942-Chiropractic manipulative treatment, 97012-Mechanical traction, 97140-Manual therapy technique, 97112-Neuromuscular reeducation, 97035-ultrasound. Not reviewed: Manual treatment for 10-22-03, required reports for 11-26-03 or date of service (DOS) 11-30-03.

Decision

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

Rationale/Basis for Decision

There are numerous problems: first of all the prescriptions that were written for post injection physical therapy during the disputed dates of service appeared to have been pre-written and simply the claimant's name was filled in. The signatures were identical and _____ name as handwritten was also identical on all 4 pages. The documentation further does not even state where the injections occurred. The documentation suggests the claimant has already undergone cervical epidural steroid injections and numerous lumbar facet injections, epidural steroid injections and sacroiliac joint injections with no appreciable benefit whatsoever. There has been no sustained improvement documented in the claimant's objective condition. _____ documentation is conflicts with other physicians. On one report he states the claimant sustained improvement whereas numerous other reports from other physicians during the same time state there have been absolutely no improvements. Numerous other physicians including _____ and even _____ himself have stated the claimant continues to worsen and that surgery has been a possibility since September 2003 at least. Although post injection physical therapy would be considered reasonable and customary in the general sense, the documentation was so poor that the area of injections that occurred from September 2003 through December 2003 was not even specified. The claimant is documented to mostly have degenerative changes that are unrelated to the mechanism of injury and injury itself. The chiropractic documentation revealed that mostly the claimant's lumbar spine was being treated and the documentation was quite clear that the claimant underwent previous epidural steroid injections and other injections to the lumbar spine and had not improved, thus making the more recent injections and post procedure physical therapy not medically necessary. The claimant has been under chiropractic management since at least February 2002, or perhaps even before this time and has not been documented to be improving in the least bit. The care for this claimant's degenerative condition has obviously been quite extensive and prolonged. Prolonged chiropractic management of cervical and lumbar radicular syndromes, no matter the compensability or relatedness, is not supported by the literature beyond 4-6 weeks. Many of the disputed dates of service did not even occur within 2 weeks of some of the injections, thereby making most of the

disputed dates of service not medically necessary as part of a post injection program anyway. The claimant is documented to be a car salesman which would mean he is required to function at probably the light duty level. There is no documentation to support that the claimant cannot return to work in some capacity as a car salesman. A note from _____ of 1/17/03 revealed no change or relief at all from the barrage of low back injections that had already occurred. Continuing care by _____, during the dates at issue, cannot be considered reasonable and necessary.