

MDR Tracking Number: M5-04-2767-01

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 (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 04-28-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. 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 the only issue** to be resolved. The office visits, chiropractic manipulative therapy and special reports from dates of service 09-02-03 to 09-05-03 and therapeutic activities from 09-02-03 to 02-12-04 and date of service 02-23-04 **were** found to be medically necessary. The office visits, chiropractic manipulative therapy and special reports from 09-06-03 to 02-25-04 and therapeutic activities from 02-13-04 to 02-25-04 (excluding date of service 02-23-04) as well as ultrasound, electronic stimulation, neuro stim-shock unit, manual traction and massage **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for office visits, chiropractic manipulative therapy, special reports, therapeutic activities, ultrasound, electronic stimulation, neuro stim-shock unit, manual traction and massage.

This Findings and Decision is hereby issued this 17th day of August 2004.

Debra L. Hewitt
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 09-02-03 through 02-25-04 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 17th day of August 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

July 16, 2004

AMENDED REPORT

MDR Tracking #: M5-04-2767-01

IRO #: 5284

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___ is a 28 year old male who on ___ was injured on the job when he heard a "pop" and felt pain in his left shoulder and tingling into his fingers. An MRI revealed a non-displaced labral tear and a Bankhart lesion. He received an injection into his shoulder soon thereafter, and then began chiropractic care and physical therapy. On 10-16-2003 he underwent arthroscopic repair of the left shoulder followed by more physical therapy.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of an office visit, therapeutic activities, ultrasound, electrical stimulation, chiropractic manual treatment, neuro stim-shock unit, special report, traction manual and massage from 9-02-2003 to 2-25-2004.

DECISION

The reviewer disagrees with the previous adverse determination regarding office visits, chiropractic manipulative therapy and special reports from 9-02-2003 to 9-05-2003. The reviewer also disagrees with the previous adverse determination regarding therapeutic activities from 9-02-2003 to 2-12-2004 and 2-23-04.

The reviewer agrees with the previous adverse determination regarding office visits, chiropractic manipulative therapy and special reports from 9-06-2003 to 2-25-2004 and therapeutic activities from 2-13-2004 to 2-25-2004 (excluding 2/23/04). Lastly, the reviewer agrees with the previous adverse determination regarding ultrasound, electronic stimulation, neuro stim-shock unit, traction manual and massage.

BASIS FOR THE DECISION

The reviewer states the MRI performed in the ER showed a labral tear, a 3-month conservative trial of physical therapy was indicated. No documentation was provided regarding the patients range of motion which could monitor the efficaciousness of the therapy being performed.

Therefore, without documentation specifically monitoring the patient response and given the fact that the patient continued to stay off work during this time, the medical necessity of care past 9-5-2003 cannot be support per Texas Labor Code 408-021. The first date in this range was already ___ post-injury, no justification was supplied to document the medical necessity of continued passive therapies at that point (ultrasound and stimulation), so their usage at any time during this time frame cannot be supported.

The treatment post-surgically, beginning on 1-16-2004, included at least 2 months of covered physical therapy. Because no records were submitted to document the medical necessity and/or efficaciousness of care, justification for continued passive modalities (ultrasound, electrical stimulation and manual therapy) beyond that time cannot be supported. However, because therapeutic activities are not passive modalities, and due to the fact that the designated doctor opined on 3-29-2004 that the patient was not at MMI and needed additional active care, the extended application of therapeutic activities was supported. The medical records also reveal that the medical doctor who performed the shoulder surgery recommended only once per week in his post-operative orders during that time, so the visits that exceeded his orders during the month of February were not medically necessary.

In terms of the problem focused office visits, again, for all practical purposes, no actual treatment records were supplied since the daily progress notes were essentially verbatim from day to day. Therefore, there was no documentation to support the medical necessity of this level of service at each encounter.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,