

MDR Tracking Number: M5-04-2944-01

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 05-07-04.

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, massage therapy, ultrasound therapy, electrical stimulation, gait training, neuromuscular re-education and therapeutic exercises rendered from 07-29-03 through 02-10-04 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 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 07-29-03 through 02-10-04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 27th day of August 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-04-2944-01
Name of Patient:	
Name of URA/Payer:	
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician:	

August 17, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

CLINICAL HISTORY

Documents Reviewed Included the Following: 06/06/03 and 10/28/03 examination forms, daily progress notes of the treating doctor, 06/06/03 narrative report, carrier reviews, request for chronic pain management program, appeal of denial of chronic pain management program, MRI reports, X-ray reports, designated doctor evaluation, TWCC hearing decision, FCE, Psychological Evaluation, Letter from ____ and report of Dr. M.

Patient began receiving physical medicine treatments 8 months after injuring his neck, lumbar spine and right shoulder in a head-on motor vehicle accident on ____.

REQUESTED SERVICE(S)

99213-OV, 97124-Massage Therapy, 97035-Ultrasound, 97032-Electrical Stimulation, 97116-Gait Training, 97112-Neuromuscular Reeducation and 97110-Therapeutic Exercises from 07/29/03 through 02/10/04.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) As time progresses, there should be an increase in the active regimen of care, a decrease in the passive regimen of care and a decline in the frequency of care. (B) Home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency. (C) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (D) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (E) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment. In this case, those criteria were not met.

The *Guidelines for Chiropractic Quality Assurance and Practice Parameters*¹ Chapter 8 under "Failure to Meet Treatment/Care Objectives" state, "After a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual

procedures may no longer be appropriate and alternative care should be considered." Although no treatment records were

¹ Haldeman, S; Chapman-Smith, D; Petersen, D *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen Publishers, Inc.

furnished for any DOS prior to 07/29/03, treatment would have been indicated during much of June and July of 2003.

However, continued treatment should be expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. In this case, only one re-examination was performed and that did not occur until almost 4 months (10/28/03) after the initiation of care. Due to that delay, there is no way to document if the gain in ranges of motion gain occurred before the treatment in dispute began. Therefore, the medical necessity of the treatment in dispute cannot be supported.

The medical records also failed to document that the treatments met the statutory criteria for medical necessity as outlined in Texas Labor Code 408.021 since the treatments did not relieve the patient's pain, did not promote recovery and did not enhance the employee's ability to return to work. In fact, on 23 of the 27 visits from 07/29/03 through 02/10/04 [no progress notes were furnished for 09/01/03], the patient reported his symptoms as unchanged or that the pain had actually increased. The patient's pain ratings also increased from 7/10 (neck) and 7/10 (low back) on 06/06/03 to 8/10 (neck) and 9/10 (low back) on 10/28/03. Moreover, if the treatment had met the statutory criteria, it is doubtful that the treating doctor would now be recommending a Chronic Pain Management Program for this patient.