

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 May 17, 2004.

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 CPT Codes 97110, 97112, 99090 and 99214 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.

- CPT Code 99080-73 for date of service 01/07/04. The carrier denied the TWCC-73 with a "V" for unnecessary medical treatment based on a peer review; however, this report is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; therefore, per Rule 133.106(f)(1) reimbursement in the amount of \$15.00 is recommended.

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 CPT Code 99080-73 for date of service 01/07/04 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 Decision and Order is hereby issued this 29th day of October 2004.

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf
Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 4, 2004

RE:

MDR Tracking #: M5-04-3076-01

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:

It should be noted that the documentation provided by the provider was essentially the same as that which was provided by the Respondent

- Multiple daily treatment notes from about 11/11/03 through 1/30/04
- A 12/19/03 note from _____.
- A low back and neck pain questionnaire of 10/25/03
- TWCC-73 report on or about 12/25/03 and 11/24/03. The 11/24/03 TWCC-73 report was from _____ who was in the same practice as _____. The claimant was recommended to be off work through this time.
- TWCC report of 10/23/03 from _____
- Multiple pain evaluations in the form of various Oswestry and Neck Disability indexes
- Copenhagen neck functional disability scale
- Neck disability index questionnaire
- Shoulder injury self assessment of function report
- Shoulder pain and disability index
- Quadruple visual analog scale
- Modified somatic perception questionnaire
- Satisfaction questionnaire
- Risk factor assessment questionnaire
- TMD disability index questionnaire
- Red flag questionnaire
- Health status questionnaire
- Risk factor assessment questionnaire re-exam
- Health status questionnaire Rand 36
- Modified Zung depression index
- MRI of the cervical spine without contrast report dated 10/28/03
- MRI of the right shoulder without contrast report dated 10/28/03
- Script for a referral to _____ for possible cervical epidural steroid injections dated 12/30/03
- Medical script from _____ dated 10/24/03 for electrodiagnostic work up
- MRI of the right shoulder script written by _____ of 10/24/03

- A 1/8/04 script for referral to _____ concerning possible cervical epidural steroid injections
- Report from _____, neurologist, of 1/19/04
- Medical records review addendum of 1/16/04
- Medical records review of 12/15/03 from _____.
- TWCC-69 report dated 2/25/04 stating the claimant was at MMI on that date with 5% whole body impairment rating done by _____
- Medical designated doctor examination report
- Report from _____ of 10/28/03
- Response to peer review report of 1/12/04 from _____
- MRI of the cervical spine report dated 4/15/99 stating the MRI was normal. This was obviously prior to the date of injury.
- Chart note of 11/3/03 from _____
- Chart note from 10/23/03 from _____
- TWCC-53 change of treating physician form dated 10/6/03
- Initial chart note of 1/7/04 from _____
- Order for payment of IRO fee report

Submitted by Respondent:

- Notice of IRO assignment and pre-payment invoice
- Notification of IRO assignment
- TWCC form for independent review request
- Medical dispute resolution request/response forms
- List of treating physician form
- List of disputed service form for disputed dates of service 12/12/03 through 2/5/04
- Initial chart note from _____, the treating physician, dated 10/23/03
- Additional chart notes of 3/2/04 showing the claimant was still experiencing significant amounts of pain
- Multiple shoulder and neck range of motion and strength evaluations dated 12/15/03 and 1/6/04
- Chart note of 1/7/04 from the treating physician
- Medical evaluation report, which was a designated doctor report from _____, dated 2/25/04 stating the claimant was at MMI on that date with 5% whole body impairment rating.
- Request for reconsideration from _____ where _____ works dated 3/2/04
- TWCC-73 report on or about 12/25/03
- Multiple exercise and physical therapy notes from the chiropractor dated 12/15/03 through 1/9/04
- Several progress notes during the previous mentioned dates of service and also including 1/12/04
- Patient medical script dated 1/23/04 for Biofreeze
- A 1/20/04 clinical handwritten note

- Further exercise therapy notes through 1/22/04
- Further muscle testing and range of motion examination reports of 12/15/03
- More range of motion and strength evaluations involving the cervical spine and right shoulder dated 1/20/04
- Progress note of 12/15/03
- Exercise notes of 12/15/03 and 12/17/03
- A 1/12/04 response to peer review report from _____
- Upper and lower extremities examination form of 1/7/04
- A 12/22/03 progress note
- Progress notes of 12/22/03 and 12/24/03
- Progress note of 1/30/04
- Multiple rehabilitation program area of injury/cervical spine treatment notes dated 2/3/04 and 2/5/04
- Cervical range of motion and shoulder range of motion history and strength histories dated 12/15/03, 1/6/04, 1/20/04 and 2/3/04
- Multiple muscle testing examinations and range of motion finding exams
- Medical records review of 12/15/03 and an addendum to the same report of 1/16/04

Clinical History

According to the documentation submitted for review, the claimant suffered alleged right shoulder and neck injury from having to lift a very heavy showcase during the normal course and scope of her employment as a pawn shop worker on _____. A showcase is a large cabinet that is used to display merchandise. The claimant initially sought treatment and was essentially returned to work and given pain medications. Her pain persisted and she presented to _____ on or about 10/23/03 complaining of severe neck pain which radiated into both shoulders and down to both elbows. She also complained of right shoulder pain. The designated doctor evaluation report from _____ revealed the claimant was still obviously in pain and she reportedly smoked about 40 cigarettes per day, yet recently quit. Other documentation revealed she smoked 1 pack a day. The claimant is noted to be divorced with 2 children. She has a history of depression for the last 27 years. The examination revealed the claimant was voluntarily guarded. There was no evidence of cervical radiculopathy or shoulder impingement. The diagnoses were mild degenerative changes of the bilateral shoulders, cervical degenerative disc disease and degenerative facet disease, no evidence of cervical radiculopathy, and cervical sprain/strain. The claimant was given 0% impairment rating for her shoulder and 5% whole person impairment for her neck injury. By report, the claimant could not tolerate electrodiagnostic work up and even though this was recommended, it was not performed. A 1/6/04 note revealed the claimant to have sustained no change at all from 12/15/03 onward. The claimant was obviously still in pain at the time of the designated doctor evaluation of 2/25/04 as well. The claimant's neck disability index score was 70% indicating that she perceived herself as being crippled as of 1/7/04. The claimant even reported low back pain at an 8/10 pain level, yet there was not much subsequent mention of this in the other documentation. The claimant demonstrated sensory changes in the bilateral upper extremities that were not consistent with the MRI findings. _____ saw the claimant on 1/19/04 and the claimant was still noted to be unable to sleep and unable to tolerate pain. The peer reviewer in this case, _____, felt the

changes demonstrated on the subsequent MRI of the cervical spine were due to natural degenerative changes and not due to the injury. There was a problem in this area because the 1999 cervical MRI was reported as normal. The sensation changes in the upper extremities seemed to change. The initial chiropractic exam revealed decreased sensation in the right upper extremity in the C7, C8 and T1 dermatomes whereas a subsequent chiropractic re-evaluation revealed there to be decreased sensation on the right in the C5 distribution and on the left in the T1 distribution. None of these correlate with the MRI findings.

Requested Service(s)

The medical necessity of the outpatient services including therapeutic exercises, neuromuscular re-education, analysis of clinical data, office visits from 12/12/03 through 2/5/04.

Decision

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

Rationale/Basis for Decision

The documentation revealed the claimant had undergone at least 15 chiropractic visits and perhaps more as of 12/12/03 without any type of appreciable documented objective improvement in her condition. There was no subjective improvement as well and in fact the claimant's condition was documented to be fairly severe through February 2004. The highly evidence based Official Disability Guidelines recommend a trial of chiropractic care to be 6 visits and other guidelines recommend a trial of care to be 6-12 visits. If at the end of 6-12 visits there is no appreciable documented evidence of improvement, then further chiropractic care is not considered to be reasonable or medically necessary. In addition the claimant's upper extremity sensation losses never correlated with the MRI findings. The mechanism of injury would not be expected to cause a 2 level disc herniation. The most significant herniation appeared to be at the C5/6 level and the claimant's decreased sensation in the right upper extremity did not correlate with the C5/6 disc herniation. The claimant did not demonstrate the clinical evidence of cervical radiculopathy and therefore, the herniation must have pre-existed the injury in this 44 year old female. There was no evidence of significant aggravation either, as there was no clinical evidence of cervical radiculopathy that correlated with the MRI after the date of injury. Again, the most striking information comes from the total lack of improvement subjectively or objectively through a sufficient trial of care which occurred and ended prior to the disputed dates of service thereby making the disputed dates of service not reasonable or medically necessary.