

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-0938.M5

MDR Tracking Number: M5-04-3208-01

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. This dispute was received on 03-12-04.

The IRO reviewed office visits, myofascial release, joint mobilization, mechanical traction, therapeutic exercises, neuromuscular re-education, manual therapeutic technique, electrical stimulation (unattended) and chiropractic manipulative treatment rendered from 04-14-03 through 10-30-03 that were denied based upon “V”.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
10-01-03	99212	\$47.23 (1 unit)	\$0.00	V	\$47.23 MEDICARE FEE SCHEDULE	IRO DECISION	The IRO determined the service to medically necessary. Reimbursement is recommended in the amount of \$47.23
04-14-03 through 05-22-03 (12 DOS)	97110	\$420.00 (1 unit @ \$35.00 X 12 DOS)	\$0.00	V	\$35.00	IRO DECISION	The IRO determined the services to be medically necessary. Reimbursement is recommended in the amount of \$35.00 X 12 DOS = \$420.00
04-14-03 through 05-22-03 (12 DOS)	97250	\$516.00 (1 unit @ \$43.00 X 12 DOS)	\$0.00	V	\$43.00	IRO DECISION	The IRO determined the services to not be medically necessary. No reimbursement recommended.
04-14-03 through 05-22-03 (12 DOS)	97265	\$516.00 (1 unit @ \$43.00 X 12 DOS)	\$0.00	V	\$43.00	IRO DECISION	The IRO determined the services to not be medically necessary. No reimbursement recommended.
04-14-03 THROUGH 10-30-03 (21 DOS)	97012	\$410.10 (1 unit @ \$20.00 X 12)	\$0.00	V	\$20.00 (12 DOS) \$18.90 (9 DOS)	IRO DECISION	The IRO determined the services to not be medically necessary. No reimbursement recommended.

		DOS and 1 unit @ \$18.90 X 9 DOS)			MEDICARE FEE SCHEDULE		
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DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
04-14-03 through 10-30-03 (21 DOS)	97112	\$752.46 (1 unit @ \$35.00 X 12 DOS and 1 unit @ \$36.94 X 9 DOS)	\$0.00	V	\$35.00 (12 DOS) \$36.94 (9 DOS) MEDICARE FEE SCHEDULE	IRO DECISION	The IRO determined the services to not be medically necessary. No reimbursement recommended.
09-29-03 THROUGH 10-30-03 (9 DOS)	97140-59	\$612.90 (2 units @ \$68.10 X 9 DOS)	\$0.00	V	\$34.05 MEDICARE FEE SCHEDULE	IRO DECISION	The IRO determined the services to not be medically necessary. No reimbursement recommended.
09-29-03 THROUGH 10-30-03 (9 DOS)	G0283	\$162.81 (1 unit @ \$18.09 X 9 DOS)	\$0.00	V	\$16.63 MEDICARE FEE SCHEDULE	IRO DECISION	The IRO determined the services to not be medically necessary. No reimbursement recommended.
04-14-03 THROUGH 05-22-03 (12 DOS)	99213-MP	\$576.00 (1 unit @ \$48.00 X 12 DOS)	\$0.00	V	\$48.00	IRO DECISION	The IRO determined the services to not be medically necessary. No reimbursement recommended.
09-29-03 THROUGH 10-30-03 (9 DOS)	98941	\$411.66 (1 unit @ \$45.74 X 9 DOS)	\$0.00	V	\$45.74 MEDICARE FEE SCHEDULE	IRO DECISION	The IRO determined the services to not be medically necessary. No reimbursement recommended.
TOTAL		\$4,425.16					The requestor is entitled to reimbursement of \$467.23

The IRO concluded that the office visit on 10-01-03 and therapeutic exercises from 04-14-03 through 05-22-03 **were** medically necessary. The IRO concluded that myofascial release, joint mobilization, mechanical traction, neuromuscular re-education, manual therapeutic technique, electrical stimulation and chiropractic manipulative therapy from 04-14-03 through 10-30-03 **were not** medically necessary.

On this basis, the total amount recommended for reimbursement (**\$467.23**) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 04-14-03 through 10-01-03 in this dispute.

This Findings and Decision and Order are hereby issued this 10th day of August 2004.

Debra L. Hewitt
Medical Dispute Resolution
Medical Review Division

DLH/dlh
Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION

July 2, 2004

Amended Letter 07/15/04
Amended Letter 07/29/04

Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: Injured Worker:
MDR Tracking #: M5-04-3208-01
IRO Certificate #: IRO4236

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. TMF's health care professional 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 TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This 34-year-old male sustained a work related injury _____. He strained his lower back when picking up a 100 pound bag of starch. He complained of intense pain to his low back radiating down into both of his legs. He states the pain interfered with work, sleep, daily routines, and recreation. His treatment has included spinal manipulations, joint mobilization, myofascial therapy, physical therapy and a work hardening program and he was evaluated with MRI, and EMG studies.

Requested Service(s)

Office visits, myofascial release, joint mobilization, mechanical traction, therapeutic exercises, neuromuscular re-education, manual therapeutic technique, electrical stimulation (unattended) and chiropractic manipulative treatment from 04/14/03 through 10/30/03

Decision

It is determined that the office visit on 10/01/03 and therapeutic exercises from 04/14/03 through 05/22/03 were medically necessary to treat this patient's condition.

It is determined that myofascial release, joint mobilization, mechanical traction, neuromuscular re-education, manual therapeutic technique and electrical stimulation (unattended) from 04/14/03 through 10/30/03 were not medically necessary for this patient's condition. Any office visits and therapeutic exercises not approved above were also not medically necessary to treat this patient's condition, which includes chiropractic manipulative therapy

Rationale/Basis for Decision

The use of unattended electrical stimulation, mechanical traction, myofascial release, and manual therapy was not medically necessary in this case from 04/14/03 through 10/30/03. The Philadelphia Panel found that therapeutic exercises were found to be beneficial from chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (e.g., thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-based Guidelines on selected Rehabilitation Interventions for Low Back Pain. *Phys Ther.* 2001; 81:1641-1674).

The Agency for Policy and Research: Clinical Practice Guideline Number 14, "Acute Low Back Problems in Adults" indicates that "the use of physical agents and modalities in the treatment of acute low back problems is of insufficiently proven benefit to justify its cost. Therefore, the use of passive physical therapy modalities (hot/cold packs, electrical stimulation, etc.) is not indicated after the first 2-3 weeks of care.

There are now 24 RCTs of various forms of traction in neck and back pain but they are generally of poor quality. Traction does not appear to be effective for low back pain or radiculopathy. (Royal College of General Practitioners, Clinical Guidelines for the management of Acute Low Back Pain, Review Date: December 2001).

The Royal College of General Practitioners indicates that, although commonly used for symptomatic relief, these passive modalities (ice, heat, short wave diathermy, massage, and ultrasound) do not appear to have any effect on clinical outcomes. (Royal College of General Practitioners, Clinical Guidelines for the management of Acute Low Back Pain, Review Date: December 2001).

The continued use of manipulation and joint mobilization (98941, 97265, and 99213-MP) was not medically necessary in this case from 04/14/03 through 10/30/03. Bronfort noted that, based on the most recent and comprehensive systematic reviews, there is moderate evidence of short term efficacy for spinal manipulation in the treatment of both acute and chronic low back pain. There is sufficient data available to draw conclusions regarding the efficacy for lumbar radiculopathy. The evidence is also not conclusive for the long-term efficacy of spinal manipulation for any type of low back pain. (Bronfort G."Spinal manipulation: current state of research and its indications." Neurol Clin 1999 Feb; 17 (1):91-111)

Haldeman reported that manipulation appears to have its greatest effect immediately following treatment and during the initial two to six weeks of ongoing treatment. Haldeman noted that the effectiveness of manipulation for the management of back pain seems to be minimal at 3 months to 12 months (Haldeman, S. "Spinal manipulation therapy: A status report", Clinical Orthopedics and Related Research, 179:62-70, 1983).

The use of therapeutic exercises was medically necessary from 04/14/03 through 05/22/03. The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (e.g., thermotherapy, therapeutic ultrasound, massage, and electrical stimulation) there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-based Guidelines on selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001; 81:1641-1674).

The use of neuromuscular re-education was not medically necessary from 04/14/03 through 10/30/03. Neuromuscular re-education is commonly utilized for post-stroke rehabilitation and is not commonly utilized for the management of conditions similar to the claimant's. The CPT Code Book defines neuromuscular re-education as: "neuromuscular re-education of movement, balance, coordination, kinesthetic sense, posture, and proprioception". The procedure is utilized to re-establish the neural link between the central nervous system and the motor system after neurological injury. As no evidence of a deficit was noted involving the interface between the central nervous system and the motor control system was noted, the procedure was not medically necessary.

Therefore, the office visit on 10/01/03 and therapeutic exercises from 04/14/03 through 05/22/03 were medically necessary to treat this patient's condition. The myofascial release, joint mobilization, mechanical traction, neuromuscular re-education, manual therapeutic technique and electrical stimulation (unattended) from 04/14/03 through 10/30/03 were not medically necessary for this patient's condition. Any office visits and therapeutic exercises not approved above were also not medically necessary to treat this patient's condition, which includes chiropractic manipulative therapy.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:vn

Attachment

Information Submitted to TMF for TWCC Review

Patient Name:

TWCC ID #: M5-04-3208-01

Information Submitted by Requestor:

Letter to Debbie Lovato 06/06/04
Millennium Chiropractic office notes/visits 01/27/03, and from 04/14/03 to 10/30/03
L.T. Johnson, MD, FACS evaluation 06/18/03
Christine Huyynh, MD EMG 03/18/03
Sky Clinical Associates, worker's comp follow up behavioral health evaluation 06/05/03
Back At Work Rehabilitation 08/25/03, 07/23/03, 03/05/03, 06/25/03, 06/03/03
Texas Workers Compensation Commission 06/20/03
TWCC-69 report of medical evaluation 10/20/03, 02/16/04, 05/04/04,
First Opinion Exams 10/09/03
Natural Corrections, PA 02/10/2004
Gregory Kirk Harmon, DC, CCSP 04/27/04
Lemmon Avenue Family Chiropractic 04/28/03
Review Med 04/08/03

Information Submitted by Respondent:

TWCC notification of IRO assignment 04/15/2004 and billing information