

MDR Tracking Number: M5-04-3294-01

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 5-28-04.

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 visit and chiropractic manipulative treatments rendered from 6/13/03 through 10/10/03 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 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, the request for reimbursement for dates of service 6/13/03 through 10/10/03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 16th day of August 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 2, 2004

RE:

MDR Tracking #: M5-04-3294-01

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:

- The usual workers' compensation documents required for the IRO process
- Table of contents of records sent
- Notice of IRO assignment and prepayment invoice
- Table of disputed services reflecting disputed dates of service 6/13/03, 8/8/03, 8/22/03, 9/26/03, and 10/10/03
- Report from 7/16/04 from _____, collection correspondent, which requests payment for the disputed dates of service
- Chiropractic evaluation of 5/4/99 from _____
- Note of 5/13/02 from _____
- Various chiropractic follow up notes and evaluations dated 10/10/03, 6/21/02, 7/19/02, 9/9/02, 10/11/02, 11/15/02, 12/13/02, 1/13/03, 4/11/03, 5/2/03, 5/16/03, 5/30/03, 6/13/03, 8/8/03, 8/22/03, 9/12/03, 9/26/03, 12/1/03, 2/12/04
- Electrodiagnostic study reports of 6/25/02 and 5/28/03
- Follow up office visit from _____ of 7/5/02
- TWCC-69 form from _____ dated 4/24/01 stating the claimant was at MMI with 14% whole body impairment rating. This may have been a statutory impairment rating; however, I am unsure of this.
- RME report from _____ dated 4/24/01
- TWCC-69 report from _____ dated 6/25/01 stating the claimant was at statutory MMI on 5/10/01 with 21% whole body impairment rating.
- The 6/25/01 chiropractic MMI exam report
- Range of motion studies and muscle testing reports of 6/7/01
- TWCC-69 report of 7/12/01 from _____ stating the claimant was at MMI on 5/7/01 with 5% whole body impairment rating and his designated doctor evaluation report
- Shoulder and lumbar range of motion worksheets from _____

Submitted by Respondent:

- Chiropractic peer review of 6/11/04 from _____
- Designated doctor evaluation from _____ of 7/12/01
- Chiropractic daily notes of 1/13/03, 4/11/03, 5/2/03, 6/13/03, 8/22/03, 9/12/03, and 12/1/03 from _____.

Clinical History

According to the documentation submitted for review, the claimant suffered low back pain and left shoulder pain from loading and unloading a trailer. The specific objects which he was loading and unloaded appeared to be boxes full of heavy weights. The claimant was also unloading or loading tires and this further aggravated his condition on the date of injury. The claimant has undergone about 19 chiropractic visits following his MMI date from 5/24/02 through 2/12/04. The claimant underwent a rotator cuff repair surgery to his left shoulder in April 2001. The claimant does not wish to entertain surgical options regarding his low back. The electrodiagnostic work ups of 6/25/02 and 5/28/03 revealed the claimant to be having acute right sided S1 radiculopathy and acute left sided L5 radiculopathy. The 5/28/03 report revealed the

presence of acute left L5 severe motor radiculopathy and chronic right sided L5/S1 motor radiculopathy. At the time of the 5/28/03 electrodiagnostic work up at which point it was obvious the claimant had a flare up for no apparent reason, neurosurgical consultation was recommended due to the severe nature of the left L5 motor radiculopathy. As mentioned earlier, the claimant has undergone numerous evaluations for the assessment of MMI and impairment and has been certified at MMI on 3 occasions at least. The claimant did undergo appropriate post operative shoulder rehabilitation and apparently underwent 4 weeks of work hardening as well. The claimant appears to be on an as needed chiropractic treatment plan for the past 3 years.

Requested Service(s)

The medical necessity of the outpatient services including office visits, chiropractic manipulation for the above mentioned claimant during the dates of 6/13/03 through 10/10/03. It should be noted that this request only encompasses 5 dates of service and the only office visit occurred on 6/13/03. The remaining dates of service of 8/8/03, 8/22/03, 9/26/03 and 10/10/03 revealed that manipulations were provided to the lumbar spine.

Decision

I agree with the insurance carrier and find that the disputed dates of service were not medically necessary.

Rationale/Basis for Decision

The claimant is a 66 year old truck driver with pre-existing advanced degenerative changes. The literature available on the prevalence of degenerative disc disease in truck drivers is numerous. The chiropractic notes during the disputed dates of service are hardly legible and provide no information regarding how the ongoing as needed care is having any effect on the claimant's subjective or objective status. The Texas Labor Code is not to be used as an excuse for treatment for the sake of treatment. The claimant's degenerative spine condition will continue to deteriorate with time despite the as-needed care. Chiropractic care beyond 4-6 weeks in well defined lumbar radicular syndromes is considered to be non-effective according to the literature and often is non-effective in these situations. The record is clear that the claimant has undergone sufficient treatment in the pre and post operative arenas and that care has been more than sufficient given the nature and scope of the injury. The claimant has also been found to be at MMI on at least 3 occasions by 3 separate physicians. I would also quote from _____ RME evaluation of 4/24/01 that states "In my view this patient will not benefit from additional conservative care including trigger point injections, facet injections, outpatient physical therapy or additional chiropractic manipulations." Again, this was dated 4/21/01, clearly over 3 years ago. It should also be pointed out that _____ used this report to justify his ongoing care by stating that _____ had stated that ongoing management into the future would be considered reasonable and medically necessary.