

MDR Tracking Number: M5-04-3510-01

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 6-14-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

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

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 massage therapy, neuromuscular re-education, therapeutic exercises, and electrical stimulation rendered from 2/09/04 through 3/12/04 **were found** to be medically necessary. The gait training rendered from 2/09/04 through 3/12/04 **was not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b) 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 2/09/04 through 3/12/04 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 1st day of October 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 8/23/04

TWCC Case Number:	
MDR Tracking Number:	M5-04-3510-01
Name of Patient:	
Name of URA/Payer:	
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	

August 10, 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

Available documentation received and included for review consist of records from Drs. M (DC) H (DC), A (DC), P (MD), C (MD), O (MD) including treatment notes, rehab notes, office visits and consultations, MRI reports, electrodiagnostic reports and FCE.

Available record review reveals the following:

____, a 64-year-old female was injured while working as a cook. Apparently this lady had a prior lower back injury (____) and was working with restrictions. While lifting some dishes out of a dishwasher, she felt a sharp pain between her shoulder-blades and her legs "gave out from underneath her" and she fell to her knees and onto her side, injuring her mid and lower back and right knee. She was taken by ambulance to Southwest Texas Methodist hospital where she was x-rayed (transitional lumbar vertebra with reduced joint space narrowing at L5 transitional level and anomalous joint formation on the left), prescribed some medication and released with a diagnosis of right lower extremity contusion and back pain. She was seen 2 days later by Dr. M, DC complaining of constant thoracolumbar area pain (7-8/10). Diagnosis was thoracic sprain, muscle spasm and lumbar radiculitis. Conservative treatment was instituted. A past history of lumbar surgery in 1980 was revealed. On 7/21/03 she was seen by Dr. P, M.D. for pain management consultation, a variety of pain medications, muscle relaxants and anti-inflammatories were prescribed and sustained throughout the treatment course. Diagnosis was thoracic and lumbosacral sprain/strain, discogenic low back pain with lumbar radiculopathy and myofascial pain.

Conservative management apparently had limited success. Electrodiagnostic studies on 7/22/03 were consistent with acute and chronic right-sided L5/S1 radiculopathy with signs of both denervation and re-nerivation. By 9/26/03 she still rated her pain as a 7/10. A functional capacity evaluation on 10/21/03 determined her to be validly functioning at a sedentary physical demand level. Thoracic MRI on 10/24/03 was normal. A referral for chronic pain management was requested for preauthorization purposes on 11/03/03.

The patient was seen for pain management intervention purposes by Dr. O, (M.D). on 11/11/03 complaining of continuing mid back pain which radiated down her lower back, radiating to the lateral and anterior aspect of the rib cage and the chest, and up to her neck area. Assessment was bilateral thoracic facet syndrome, with thoracic radiculopathy and discogenic pain with a myofascial pain syndrome.

Diagnostic facet joint injections were recommended along with continuation of physical therapy/active rehabilitation. There was a problem with preauthorization and apparently the patient did not receive these injections. Updated functional capacity evaluation on 12/8/03 demonstrated progress and sitting, standing tolerance overhead lifting and push/pulling but continue functioning at the sedentary physical demand level. She continued with active therapy with Dr. A, consisting of a variety of exercises lasting approximately two hours, several times per week.

She was seen for designated doctor purposes on 1/20/04 by Dr. T, M.D. who felt that she was not at MMI pending trigger point injections. Felt that she had had ample opportunity physical therapy, and it could be reduced to a "maintenance level". She was seen again on 2/12/04 by Dr. O, complaining of a 7/10 pain scale. Facet joint injections were again recommended along with completing a course of physical therapy/rehabilitation to reduce the myofascial pain syndrome. She continued with treatment multiple times per week between February and March with active therapies. She followed up again with Dr O on 3/22/03, apparently the injections had not been approved. Patient had reduced pain scale down to 5/10. This time he found decreased sensation to light touch/pinprick between T5 and T8. He requested an EMG/NCV of the thoracic area.

She was then seen by Dr. H, (DC) on 4/27/04 for MMI/impairment rating purposes. She was rated with a 5% DRE category II whole person impairment for the thoracic spine.

REQUESTED SERVICE(S)

Medical necessity of massage (97124), neuromuscular reeducation (97112), gait training (97116), therapeutic exercises (97110), and electrical stimulation (97032). 02/09/04-03/12/04.

DECISION

There is establishment of medical necessity for all disputed services except for gait training (97116) for the provided date range.

RATIONALE/BASIS FOR DECISION

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1)

cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

This elderly lady had obvious ongoing problems that were resistant to normal interventional measures. There was good agreement/consistency of clinical evaluations between the various attending providers. It appeared that the requesting providers had difficulty in obtaining authorization for recommended treatment (facet joint injections). The patient remained under the care, with some improvement documented satisfying at least part of the above-mentioned standard of medical necessity.

Unfortunately there is little evidence to suggest why gait training would be necessary or exactly what part it played in the therapeutic régime. It would seem inconsistent with the diagnosis and it cannot determine why it was medically necessary from the records.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.

References:

- Hansen DT: Topics in Clinical Chiropractic, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".
- Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;
- Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997; chapter 1, pp. 3-25.
- Liebenson C. Commentary: Rehabilitation and chiropractic practice. JMPT 1996; 19(2):134140