

MDR Tracking Number: M5-04-3761-01

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 07-01-04.

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, therapeutic activities, therapeutic exercises and neuromuscular re-education 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, reimbursement for dates of service from 12-03-03 through 12-26-03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 1st day of September 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Envoy Medical Systems, LP
1726 Cricket Hollow
Austin, Texas 78758

Ph. 512/248-9020
IRO Certificate #4599

Fax 512/491-5145

NOTICE OF INDEPENDENT REVIEW DECISION

August 23, 2004

Re: IRO Case # M5-04-3761

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic, who is licensed by the State of Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting 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 referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Request for reconsideration
4. Letter of medical necessity
5. Therapy notes
6. SOAP notes
7. Dates of treatment chart
8. D.C. initial patient exam
9. Letter from D.C. to attorney
10. TWCC work status reports
11. Neurosurgeon reports 2003, 2004
12. Report 12/20/02
13. MRI report lumbar spine 1/15/03

History

The patient injured his low back in ___ when he hit a bump while driving, bounced up and

down and felt pain in his back. He received chiropractic treatment and physical therapy from the treating D.C. Surgery to the low back was performed on 6/3/03. The patient was referred back to the D.C. for post-operative therapy in a few weeks after surgery, and again on 11/7/03. The recommendation on 11/17/03 was for additional therapy 3 times a week for four weeks. The therapy in dispute is for the period 12/3/03 – 12/26/03.

Requested Service(s)

Office visits, therapeutic activities, therapeutic exercises, neuromuscular reeducation
12/3/03 – 12/26/03

Decision

I agree with the carrier's decision to deny the requested services.

Rationale

An 8/1/03 note from the neurosurgeon indicates that the patient had post-operative therapy prior to the dates of the disputed services. No records of that therapy were provided for this review, but it apparently failed, as the neurosurgeon's reports over the next few months indicate that the patient's back pain persisted.

In an 11/7/03 report, the neurosurgeon recommended additional therapy three times a week for four weeks, including aquatic therapy. This apparently is the therapy in dispute. (There were no records provided of therapy taking place between 11/7/03 and 12/3/03.) The next report from the neurosurgeon is dated 12/30/03, and it indicates that the patient has "just finished physical therapy" and that as a result "the physical therapy has exacerbated his symptoms."

The patient's condition had failed to respond to any form of conservative treatment prior to and following surgery before the disputed period. The disputed services were initiated some six months after surgery, and it would be doubtful that conservative treatment would be beneficial after this extended length of time. The failure of conservative therapy does not establish a medical rationale for continued non-effective therapy, such as that provided in this case.

No documentation was provided describing the type of exercises, aquatic therapy and activities included in the D.C.'s treatment protocol, and no records were provided indicating whether any of the specific treatment was described or planned by the neurosurgeon.

The D.C.'s documentation fails to show objective, quantifiable findings to support the treatment in dispute. The treatment was inappropriate because it aggravated the patient's symptoms.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.