

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 07-16-04. Date of service 07-15-03 was not timely filed per Rule 133.308(e)(1) and will not be reviewed by the Medical Review Division.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the **majority** of the issues of medical necessity. The IRO agrees with the previous determination that the office visits, myofascial release, joint mobilization, electrical stimulation, therapeutic exercises, chiropractic manipulation, ROM measurements rendered from 07-16-03 through 08-05-03 **were not** medically necessary. The IRO agrees that the functional capacity exam and work medical/disability exam **were** medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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

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 date of service 08-19-03 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 Findings and Decision is hereby issued this 10th day of September 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Date: September 7, 2004

RE:

MDR Tracking #: M5-04-3927-01

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:

- 07/01/03 Lumbar MRI report by _____
- 07/08/03 3-page EMG/NCV report by _____
- 08/28/03 3-page Retrospective peer review _____
- 06/11/03 to 08/05/03 20-pages (19-DOS) of Clinical Notes
- 06/19/03 and 06/26/03 TWCC-73 forms
- 08/05/03 4-page Lumbar range of motion (ROM) study
- 08/19/03 20-page Impairment Rating with functional capacity evaluation (FCE)

Submitted by Respondent:

- 04/02/03 TWCC-73
- 08/28/03 3-page Retrospective peer review _____
- 04/02/03 1-page Chart Note from _____
- 04/21/03 1-page Chart Note from _____
- 04/24/03 1-page Chart Note from _____
- 05/19/03 1-page Chart Note from _____

Clinical History

Documentation reveal that the claimant allegedly injured her lower back, while on the job pulling a 4 pound bag of dog food off a pallet. She reported her injuries to her supervisor then sought treatment at _____ in _____. The claimant has a past medical history of chronic back pain that reportedly resulted from a 3-4 year old back contusion. She initiated physical therapy at _____ and was released to return to light duty on 04/21/03. On 04/21/03 notes reported no pain for the last couple of visits. Her pain was reportedly localized to the lumbar spine. As of 05/19/03 she had completed 10-sessions of physical therapy and was pain free. Her diagnosis was a lumbar sprain/strain and her. Claimant switched treating doctors to _____ and started treatment on 06/11/2003. Lumbar MRI was performed on 07/01/03 that revealed findings consistent with a 1-2 mm posterocentral protrusion/herniation at L4-5. A normal EMG/NCV was performed on 07/08/03. By 07/10/03 the claimant had completed approximately 14-sessions of passive and active chiropractic care.

Care was completed on 08/05/03 for a total of 19-sessions. A range of motion study and physical therapy were performed on 08/05/03. On 08/19/03 an Impairment Rating and FCE were performed.

Requested Service(s)

Disputed dates of services: from 07/16/2003 through 08/19/2003. Office visits (99213), myofascial release (97250), joint mobilization (97265), electrical stimulation (97032), therapeutic exercise (97110), chiropractic manipulation (98940), ROM measurement (95851), functional capacity examination (97750-FC) and work medical/disability exam (99455-WP).

Decision

Documentation provided for review does NOT support the medical necessity for the Office visits (99213), myofascial release (97250), joint mobilization (97265), electrical stimulation (97032), therapeutic exercise (97110), chiropractic manipulation (98940), and ROM measurement (95851) completed from 07/16/2003 through 08/05/2003.

The documentation submitted for review supports the medical necessity for functional capacity examination (97750-FC) and work medical/disability exam (99455-WP) completed on 08/19/2003.

Rationale/Basis for Decision

The documentation provided for review does not support the medical necessity for an extensive supervised protracted course of care. The claimant had completed 10-sessions of physical therapy to include supervised direct one-on-one active rehabilitation prior to initiating chiropractic care. On 05/19/2003 the claimant exhibited the ability to push/pull with 60 pounds of force. She was able to perform back extension with 30 pounds resistance, 25 pounds abdominal, and run on a treadmill for 20 min at 2.5 miles/hr. The claimant was reportedly pain free after her last therapy session on 05/19/03. From 06/11/2003 to 07/16/2003 the claimant had completed at least 14-sessions of chiropractic care and supervised rehabilitation. Assuming the claimant was suffering from an exacerbation and/or flare-up of her condition the 14-sessions (5-weeks) of chiropractic care prior to the dates in question were more than sufficient amount of care for treatment of an exacerbation. The claimant was more than adequately educated and instructed in an individualized progressive home based exercise program to be released from supervised care prior to 07/16/2003. This is supported by the _____ for probable discogenic involvement without neurological signs, Official Disability Guidelines-Treatment in Workers' Compensation as well as the ACOEM Guidelines 2nd Edition. The documentation submitted for review does not support evaluation and management (E/M) code 99213 for each and every office visit at this phase of care. Monthly evaluation and management is reasonable and medically necessary to: assess, examine, reevaluate, manage, and determine or alter the treatment plan. The functional capacity evaluation and impairment rating were medically necessary in order adequately determine the claimant's capacity for work as well as to properly assign an impairment rating under the 4th edition AMA guides. The range of motion

testing performed on 08/05/03 failed to provide any quantifiable objective clinical benefit in the treatment of the claimant.