

MDR Tracking Number M5-04-4201-01

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 (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 August 11, 2004.

The 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, massage and aquatic therapy 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 was the only issue** to be resolved. As the treatment office visits, massage and aquatic therapy were not found to be medically necessary, reimbursement for dates of service from 2/3/04 thru 2/18/04 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 8th day of October 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

Date: September 23, 2004

RE:

MDR Tracking #: M5-04-4201-01

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:

- A 9/14/04 report which is a final request for medical dispute resolution by an IRO letter from the treating physician. This letter contains the rationale for why the treating chiropractor felt the disputed dates of service were medically necessary.
- Initial evaluation report from _____ dated 7/30/99 which was the date chiropractic began
- Interim assessment report of 3/13/02 from the treating chiropractor
- Interim assessment report of 4/12/02 from the treating chiropractor
- Interim exam report of 2/3/04 regarding the alleged exacerbation which occurred which in turn necessitated the disputed services
- Interim exam report of 2/20/04
- Multiple office visits notes covering the disputed dates of service from 2/3/04 to 2/18/04
- TWCC-73 report dated 2/3/04 recommending the claimant be off work for a month regarding this exacerbation
- Several follow up visits from _____ dated 7/13/01, 3/30/01, 12/21/01
- Facet injection procedure note involving the lumbar spine dated 8/8/00
- Trigger point injection note of 1/29/02
- TWCC-69 report from _____. revealing the claimant to be at MMI on 8/28/00 with 30% whole body impairment rating.
- Designated doctor examination report from _____

Submitted by Respondent:

- A 9/16/04 note from _____ regarding their representation of the insurance carrier in this matter. This letter also served as a rationale for the non-medical necessity of the chiropractic services in dispute which ran from 2/3/04 to 2/18/04.
- Table of disputed services for disputed dates of service 2/3/04 to 2/18/04
- Chiropractic peer review report of 11/16/02
- Chiropractic peer review report of 4/1/02
- Multiple billing forms regarding the disputed dates of service from the treating chiropractor, _____.
- Multiple explanation of benefits

Clinical History

According to the documentation submitted for review, the claimant reportedly fell from some scaffolding or a ladder and landed face up on the base of a generator. The claimant ended up

undergoing a hernia repair surgery after the injury and ended up seeing _____ for chiropractic care beginning on or about 7/30/99. The multiple peer reviews which were provided for review revealed the claimant has undergone extensive chiropractic care and he has also undergone facet injections and trigger point injections. The claimant has also undergone cervical and lumbar MRI evaluations as well as a lumbar discogram. According to the peer review doctor, these MRI evaluations and the lumbar discogram were normal or negative. The electrodiagnostic findings which were performed on or about 8/6/99 revealed questionable evidence of right L4 nerve root impairment which did not in my opinion correlate with the claimant's clinical presentation in that the symptoms were mainly on his left. The claimant reportedly had some kind of exacerbation on or about 2/3/04 which is the subject of the disputed dates of service in question. This exacerbation was documented to be from weather changes in the _____ where the claimant was receiving chiropractic care. The claimant had reportedly not had chiropractic care since 9/9/02 and a change in the weather prompted the claimant to go to his chiropractor where he received over \$1100 worth of aquatic and massage therapy.

Requested Service(s)

Office visits, 97124 – massage, 97113 – aquatic therapy for dates of service 2/3/04 to 2/18/04.

Decision

I agree with the insurance carrier and find that the services in dispute were not medically necessary.

Rationale/Basis for Decision

The documentation from the treating chiropractor revealed that the rationale for the \$1100 or so in chiropractic treatment 5 years post injury was because the weather was cold and rainy and this was causing an increase in the claimant's symptoms. Treatment based on increased symptoms from rainy and cold weather clearly is not medically necessary as it pertains to a work related injury that occurred nearly 5 years prior to the disputed dates of service. Furthermore, _____ medical dispute resolution letter of September 2004 which is supposed to provide support for the disputed treatment also has its own flaws. _____ letter of 9/14/04 states there was a decrease in pain and an increase in range of motion as a result of the disputed treatment. It should be noted that the range of motion and pain level assessments of 2/4/04 and 2/20/04 were provided as proof of the alleged efficacy of treatment during the disputed dates of service. A close look at the pain level and range of motion numbers from the 2/4/04 and the 2/18/04 daily chiropractic notes revealed a decrease in overall pain from an 8/10 to a 6/10 pain level and there were no documented changes in range of motion from 2/4/04 through 2/18/04. My question would therefore be, how did the claimant's pain go from an 8/10 to a 2-3/10 pain level as reported in the 9/14/04 letter from _____ when it was documented in the chiropractic daily notes that there was little change in pain levels and absolutely no documented change in range of motion? Furthermore, how did the claimant's pain level drop so suddenly

between 2/18/04 and 2/20/04 and how or why did the claimant's range of motion increase so dramatically within only 2 days from 2/18/04 to 2/20/04? The interim exam of 2/20/04 does not reflect what was documented to be occurring in the daily notes only 2 days before the exam of 2/20/04. Furthermore there were improvements in cervical spine range of motion when all the physical therapy, massage therapy and aquatic therapy was documented to be directed toward the claimant's left shoulder and low back exclusively. The documentation revealed that the claimant had no significant findings on cervical and lumbar MRI testing as well as lumbar discogram. Electrodiagnostic findings did not include a needle EMG and the findings were in no way convincing of the presence of injury. In fact, the findings on the electrodiagnostic testing did not even correlate with the claimant's subjective complaints or objective clinical findings. It should be further pointed out that nearly 2 hours of massage and aquatic therapy would be considered extremely excessive and non-cost effective for an exacerbation caused by changes in weather. In this context the treatment during the disputed dates of service would not even be considered related to the original injury and I again would point the reader of this report to the fact that the chiropractic daily notes do not reflect the same findings as were reported on the 2/20/04 re-examination as well as the 9/14/04 note from _____. There are large discrepancies in what seems to be the true improvement in the claimant's pain levels and range of motion findings.