

MDR Tracking Number: M5-04-4285-01

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 19, 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 (99212, 99213), manual therapy technique (97140), group therapy technique (97150) therapeutic exercises (97110), special reports (99080) were not found to be 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 office visits (99212, 99213), manual therapy technique (97140), group therapy technique (97150) therapeutic exercises (97110), special reports (99080) were not found to be medically necessary, reimbursement for dates of service from 1/6/04 through 2/26/04 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 22nd day of October 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

Date: October 19, 2004

RE:
MDR Tracking #: M5-04-4285-01
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:

- Demand letter for payment regarding the disputed dates of service dated 9/13/04 from _____, the treating chiropractor.
- Several follow up evaluations and office visit notes, dated 10/4/01, 12/27/01, 2/28/02, 8/14/03, 10/22/03, 12/10/03, 2/11/04 and 3/31/04.
- Impairment rating report from _____ as well as 2 TWCC-69 reports dated 10/27/03 and 10/1/03.
- Two requests for pre-authorization mainly for active rehabilitation dated 12/20/01 and 2/28/02.
- Several MRI reports, specifically a report of the cervical spine dated 12/5/01.
- Thoracic spine MRI report dated 12/10/01
- Left knee MRI report dated 12/10/01
- MRI of the lumbar spine report dated 12/10/01
- Cervical spine x-ray report dated 12/20/01
- Bilateral ankle x-ray study dated 12/20/01.
- Left knee x-ray study dated 12/20/01
- Lumbar spine plain film x-ray study dated 12/20/01
- Cervical discogram, post discogram CT report of 7/22/02 regarding there to be a positive discogram at several levels.

- Several notes and examination findings and reports from _____, Professor of Spine Surgery dated 7/31/03, 9/30/02, 7/8/02 and 11/20/03.
- Note from _____ dated 7/3/02
- Several consultation notes from _____ dated 10/31/01, 11/28/01, 12/19/01, 1/16/02 and 3/6/02.
- Electrodiagnostic report of 12/11/02
- Psychotherapy and biofeedback discharge report regarding psychotherapy and biofeedback that occurred beginning on 2/8/02 and ending on 2/28/02.
- Several Designated Doctor evaluation reports from _____, dated 5/28/03, 11/12/03 and 11/13/02.
- Several TWCC-69 reports accompanied the Designated Doctor evaluation reports.
- Several peer review reports from _____ dated 1/17/02, 11/26/03 and 6/18/04.
- Operative procedure note dated 6/10/03 regarding the claimant's anterior cervical disc decompression surgery which occurred at the C4 through the C7 levels.
- Current perception threshold (CPT test) 11/6/01, involving the lower extremities.

- Multiple range of motion and strength tests. The range of motion test reports were dated 10/23/01, 11/26/01, 1/20/04 and 3/16/04. The cervical neck strength test reports were dated 10/25/01, 11/27/01, 8/21/03, 11/14/03, 1/22/04 and 3/19/04.
- There was also a report from _____ dated 10/9/02.

Submitted by Respondent:

- Chiropractic peer review report of 11/26/03
- Peer review report of 6/18/04
- Peer review report of 8/26/04
- Designated Doctor evaluation from _____, dated 5/28/03
- Chiropractic peer review report of 2/15/02
- Operative report regarding the claimant's 6/10/03 anterior cervical disc decompression surgery at 3 levels.
- Follow up visit with _____, the claimant's surgeon, on 6/23/03.
- Post surgical range of motion strength testing of 8/21/03
- Several chiropractic daily notes during the disputed dates of service from 1/6/04 through 2/26/04.
- Several active rehabilitation and exercise sheets provided by the treating chiropractor during the disputed dates of service.

Clinical History

According to the documentation submitted for review, the claimant was thrown from a railcar when a train derailed going at a low rate of speed on _____. The claimant reportedly was knocked unconscious and suffered injury to his head, back, neck, both legs, left knee/ankle and both feet. The claimant underwent a 3 level cervical fusion and anterior decompression surgery on 6/10/03. It appears the claimant has been involved in postoperative physical therapy since 8/20/03. Prior to the surgery the claimant underwent exhaustive conservative measures and continued to have ongoing neck problems and ended up undergoing surgery. According to the documentation the claimant underwent about 45 sessions of physical therapy in the postoperative setting as of 11/24/03. It was felt that this extended amount of treatment would be considered reasonable and necessary based on the complexity and extent of the cervical spine surgery. MRI reports of the lumbar and thoracic spine were essentially normal. There was only a 2 mm centralized bulge noted in the low back and the claimant's obvious main problem was involving the neck. The claimant did appear to have ongoing low back symptoms throughout the entirety of the chiropractic documentation through March 2004.

Requested Service(s)

Office visits (99212, 99213), manual therapy technique (97140), group therapy technique (97150), therapeutic exercises (97110), special reports (99080). The disputed dates of service are from 1/6/04 through 2/26/04. According to the documentation I have for review, the dates of treatment specifically are 1/6, 1/9, 2/10, 2/13, 2/17, 2/25 and 2/26.

Decision

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

Rationale/Basis for Decision

My opinion is that ongoing treatment was medically necessary during the disputed dates of service; however, the type of treatment rendered was inappropriate at that particular time. It was quite clear in the documentation that this was a fairly significant and complex case yet the amount of physical therapy that had occurred through December 2003 was more than adequate, such that the claimant could have been transitioned into a work conditioning program or work hardening program at that point. It should be noted that _____, the claimant's surgeon documented an essentially normal neurological examination as of 11/20/03 and he mentioned the need for work hardening. The Designated Doctor in this case, _____, who performed a functional capacity evaluation on 11/26/03 as part of a Designated Doctor evaluation and this revealed the claimant was capable of light to medium duty work. It was at this point that the claimant could have tolerated a work conditioning program or work hardening program. There was no need to continue with the same type of active modalities which were occurring. The multiple chiropractic re-evaluations and strength evaluations which ran from 8/21/03 through 3/31/04 did show slow steady improvement, and I am not disputing the fact that improvement did occur with the postoperative chiropractic care. The point here is that the claimant demonstrated evidence that he could tolerate and was a candidate for a work conditioning program or work hardening program by the end of December 2003 or at least by early January 2004. It should also be mentioned that the highly evidenced based Official Disability Guidelines recommend about 34 visits over a 16 week period for this type of surgery. The claimant did have surgery at multiple levels and this would reasonably entitle him to more visits, however, it was clear that he did have 45 visits through November of 2003 and likely had more visits through December 2003 as well. This should be sufficient enough to transfer him into a work conditioning program or work hardening program. The documentation supports that the claimant could indeed handle at least a trial of work conditioning or work hardening.