

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 8-19-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on 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.

The following disputed dates of service were withdrawn by the requestor on September 15, 2004 and therefore will not be considered in this review:

CPT code 97112 for dates of service 1/12/04 through 4/5/04.

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 office visits and chiropractic manipulative treatments rendered from 1/12/04 through 4/5/04 were found to be medically necessary. The neuromuscular re-education procedures were also reviewed by the IRO, however, these services were withdrawn by the requestor as this code is global to the chiropractic manipulative treatments and therefore cannot be billed separately. The respondent raised no other reasons for denying reimbursement for the above listed service.

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 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 1/12/04 through 4/5/04 as outlined above 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 13th day of October 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

September 1, 2005

REGINA CLEAVE
TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M5-04-4292-01

CLIENT TRACKING NUMBER: M5-04-4292-01 /IRO certification #5278

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as ~~an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned~~ the above mentioned case to MRIOA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

Records Received:

Records from TWCC:

1. Notification of IRO Assignment, 9/15/04, 1 page
2. Letter from Texas Worker's Compensation Commission to Medical Review Inst of America, 9/15/04, 1 page
3. Medical dispute resolution request/response form, date stamp for receipt from requestor 8/19/04, 2 pages
4. Medical dispute resolution request/response form, received stamp for receipt from respondent 8/23/04, 1 page
5. Table of Disputed Services, dates 1/12/04 through 4/5/04, 2 pages
6. Broadspire Services, Inc EOB dated 6/5/04, 3 pages

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Records from Dr. Mitchell:

7. Notification of IRO Assignment, 9/15/04, 1 page
8. Letter from Texas Worker's Compensation Commission to Medical Review Inst of America, 9/15/04, 1 page
9. Brief statement of position submitted by treating doctor dated 9/23/04, 1 page
10. Request for reconsideration from Dr. Mitchell, undated, 4 pages
11. Texas Workers' Compensation Commission Medical Review Division, MS-48 Medical Dispute Resolution Findings and Decision, 7/23/03, 2 pages
12. Previous IRO opinion on same patient, different dates of service from Independent Review Incorporated dated 7/18/03, 2 pages
13. Treating doctors "Daily SOAP Notes" beginning with date of service 1/9/04 and proceeding through 4/5/04 with corresponding patient pain drawings, 15 pages
14. Letter submitted by referral orthopedist, Dr. Davidson, 11/11/03, 1 page
15. Physician's summary office visit, 2/26/04, 1 page
16. MRI report of cervical spine from Longview Regional Medical Center dated 6/29/99, 2 pages
17. Repeat study from Longview Imaging Center dated 1/3/00, 1 page
7. MRI report of lumbar spine from Longview Imaging Center dated 6/9/99, 2 pages
8. Medical consultation narrative dated 6/21/01, 3 pages
9. EMG/NCV report of the upper extremities dated 6/22/00, 2 pages
10. EMG/NCV report of the lower extremities dated 10/15/99, 2 pages
11. "Encounter Report" for TWCC Second Surgical Opinion dated 12/4/00, 3 pages
12. Notification of IRO Assignment, 7/1/04, 1 page
13. Cover letter statement of position submitted by the carrier disputing medical necessity, 7/8/04, 1 page
14. Notice of IRO assignment and prepayment invoice dated 7/6/04, 1 page
15. Texas Worker's Compensation Commission Order for Payment of Independent Review Organization Fee, 9/23/04, 1 page

Treatment Summary/Case History:

The patient is (now) a 63-year-old male brewery worker who, on ____, was cleaning stainless steel plates and a pasturizer when he slipped and fell onto the floor, striking both his lower back and neck. Over the past few years, he has received chiropractic care, physical therapy, injections, and prescription pain management. Although surgical intervention was seriously considered at an earlier time, it has since been determined that he is not a surgical candidate. He continues to receive palliative and exacerbation treatment care from his treating doctor of chiropractic.

Questions for Review:

Please advise medical necessity of office visit (#99214) and chiropractic manipulative treatment, spinal, 3-4 regions (#98941). Denied by carrier for medical necessity with "V" codes. The dates of service in dispute are 1/12/04 to 4/5/04. File contains mixed issues.

Conclusion/Decision to Certify:

Yes, the office visits (#99214), neuromuscular reeducation procedures (#97112), and chiropractic manipulative treatments (#98941) from 1/12/04 through 4/05/04 were medically necessary to treat this patient's injury.

Rationale: In this case, the records submitted adequately documented the presence of a significant compensable injury to both the cervical and lumbar spines that has required extensive treatment over the past few years. The medical records further document that chiropractic care has afforded significant relief over the course of his treatment in the form of spinal adjustments and physical therapy.

According to the specific medical records provided, the patient underwent a functional capacity evaluation (FCE) on/around 1/12/04, which caused an acute exacerbation in his condition as well as a significant rise in his blood pressure. The patient had to discontinue the FCE and was referred to the emergency room for intervention. Since the records adequately documented the exacerbation, it was appropriate for the treating doctor to perform a reevaluation. Accordingly, the office visit for reevaluation (#99214) performed on 1/19/04 was medically necessary.

In terms of the neuromuscular reeducation procedures (#97112) that were performed, the medical records adequately documented the presence of chronic nerve damage and irritation, gait and ambulatory abnormalities, and muscular weakness. As such, these procedures were appropriate for this injury and supported by the patient's diagnosis. Moreover, the daily notes adequately demonstrated that the patient experienced relief from his symptoms as a result of these treatments, so the treatments met the statutory requirements (reference 1) of medical necessity.

Insofar as the chiropractic manipulative therapy (#98941) is concerned, according to a study published in *Spine* (reference 2), chiropractic spinal manipulation yielded the best results for chronic spinal pain. Further, several randomized studies (references 3, 4 and 5) have proven the effectiveness of spinal manipulation for patients with cervical spine symptoms and conditions. Therefore, these manipulations were medically necessary.

References Used in Support of Decision:

1. Texas Labor Code 408.021
2. Giles LGF, Muller R. Chronic Spinal Pain – A Randomized Clinical Trial Comparing Medication, Acupuncture, and Spinal Manipulation. *Spine* 2003; 28:1490–1503.
3. Hurwitz EL, Morgenstern H, Harber P, Kominski GF, Yu F, Adams AH. A randomized trial of chiropractic manipulation and mobilization for patients with neck pain: clinical outcomes from the UCLA neck–pain study. *Am J Public Health*. 2002 Oct;92(10):1634–41.
4. Hoving JL, Koes BW, de Vet HC, van der Windt DA, Assendelft WJ, van Mameren H, Deville WL, Pool JJ, Scholten RJ, Bouter LM. Manual therapy, physical therapy, or continued care by a general practitioner for patients with neck pain. A randomized, controlled trial. *Ann Intern Med*. 2002 May 21;136(10):713–22.
5. Gross AR, Hoving JL, Haines TA, Goldsmith CH, Kay T, Aker P, Bronfort G, Cervical overview group. Manipulation and Mobilization for Mechanical Neck Disorders. *Cochrane Database Syst Rev*. 2004;1:CD004249.

This review was provided by a Chiropractor who was certified by the National Board of Chiropractic Examiners. This reviewer is a member of the American Chiropractic Association and the U.S. Veterans Administration Chiropractic Advisory Committee. This reviewer is a fellow of the Federation of Chiropractic

Licensing Boards and the International College of Chiropractors. This reviewer has been in active practice since 1985.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIOA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIOA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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