

MDR Tracking Number: M5-04-4298-01

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 08-20-04.

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, ultrasound, manual therapy technique, therapeutic exercises and electrical stimulation 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 08-20-03 to 03-29-04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 4th day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh
Enclosure: IRO decision

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity
IRO Decision Notification Letter**

Date: 11/04/04
Amended 12/30/04
Injured Employee:
MDR #: M5-04-4298-01
TWCC #:
MCMC Certification #: 5294

Requested Services: office visits, ultrasound, manual therapy technique, therapeutic exercises, and electrical stimulation. Denied by carrier for Medical Necessity with "V" codes.

Dates of Service in dispute: 08/20/2003 through 03/29/2004.

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of dates of Service 08/20/2003 through 03/29/2004.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Necessity, Medical Dispute Resolution on 11/04/2004 concerning the medical necessity of the above references requested service hereby **Upholds the carrier's**

decision the carrier's decision that the requested services are not medically necessary. The decision is based on:

REVIEW DATA:

TWCC referral form and submitted clinical highlights. IRO acknowledgment and Invoice Notification Letter, dated 09/20/2004. Notification of IRO Assignment, dated 09/16/2004 (13pgs). Real Health Care (Request for Independent Review), dated 10/04/2004 (9pgs). Narrative report, dated 03/27/2002 (3pgs). North Houston Imaging Center, diagnostic Interpretation Report, dated 04/08/2002 (5pgs). Texas Pain Institute, Follow-Up Office Visit, dated 04/16/2002 (2pgs). New Patient Evaluation, Dr. Mark F. McDonnell, dated 05/14/2002 (3pgs). Progress Report, Dr. John T. Randolph, dated 05/15/2002 (3pgs). Causation Letter, Dr. John T. Randolph, Nondated (2pgs). Functional Capacity Evaluation, Dr. Margaret N. Chan, dated 07/10/2002 (2pgs). Heights Therapy and Rehab.CTR, Functional Capacity Assessment, dated 07/10/2002 (12pgs). Progress Report, Dr. John T. Randolph, dated 07/22/2002 (2pgs). Examinations Report, Dr. Joon Lee, Dated 07/23/2002 (4pgs). TWCC Report of Medical Evaluation, dated 01/13/2003. Report of Medical Evaluation, Dr. John Dillion, dated 12/05/2002 (2pgs). Supplemental Information, Dr. John Dillion, dated 12/05/2002 (5pgs). Follow-up Note, Dr. Guy R. Fogel, dated 12/09/2002. Progress Report, Dr. John T. Randolph Jr, dated 01/23/2003 (2pgs). Houston Spine Surgery Patient Report by Dr. Mark F. McDonnell, dated 01/28/2003. Memorial MRI & Diagnostic report by Dr. James A. Cain, dated 01/29/2003. Progress Report, John T. Randolph Jr, dated 02/03/2002 (2pgs). Initial Comprehensive Evaluation Note, Dr. S.Ali Mohamed, dated 02/20/2003 (4pgs). Recommendation report, Dr. S.Ali Mohamed, dated 02/24/2003. Progress Report, John T. Randolph Jr. dated 03/03/2003 (2pgs). Recommendation Report, Dr. S. Ali Mohamed, dated 03/24/2003. Progress Report, Dr. John T. Randolph Jr, dated 04/10/2003 (2pgs). TWCC Report of Medical Evaluation, dated 05/15/2003. Designated Doctor Evaluation, Dr. Suzanne E. Page, dated 04/28/2003 (4pgs). Progress Report, John T. Randolph, dated 05/05/2003 (2pgs). Medical Opinion Letter, Dr. Mark F. McDonnell, dated 06/05/2002. Progress Report, Dr. John T. Randolph Jr., dated 06/20/2003 (2pgs). Progress Report, John T. Randolph Jr., dated 07/23/2003 (3pgs). TWCC Report of Medical Evaluation, dated 08/18/2003 (2pgs). Designated Doctor Evaluation, Dr. Suzanne E. Page, dated 08/11/2003 (10pgs). Arcon Airs-Impairment Rating Report: Nondated (10pgs). Progress Report, Dr. John T. Randolph, dated 08/20/2003 (2pgs). Progress Report, Dr. John T. Randolph, dated 09/03/2003 (2pgs). Clinic Visit Letter, Dr. Mark F. McDonnell, dated 11/04/2003. Lumbar ESI Note, Dr. Joon S. Lee, dated 08/07/2002. Two Views Lumbar Spine Letter, Dr. Mark F. McDonnell, dated 11/04/2003. Progress Report, Dr. John T. Randolph (2pgs). Progress Report, Dr. John T. Randolph, dated 05/21/2004 (2pgs). Functional Capacity Evaluation, Dr. Rafael Loya, dated 06/01/2004 (12pgs). Real Health Care-Daily Soap Note, dated 03/18/2004-09/03/2003 (14pgs). Real Health Care Check, dated 10/05/2004.

DETERMINATION:

The documentation fails to substantiate the medical necessity or provide the rationale for the continuing chiropractic care during the above captioned dates of service. Specifically, this injured individual sought treatment under the administration of the

attending chiropractor, Dr. Randolph on 03/27/2002. The injured individual was examined and chiropractic management commenced. The injured individual presented with multi-level spinal pain with bilateral lower extremity symptomatology. Subjective pain levels were 8/10. Orthopedic testing showed marked decreases including ranges of motion, which were severely decreased. While it is obvious that this injured individual has significant complicating factors and co-morbidities evidenced by positive MRI findings, the documentation does not clearly establish that continuing chiropractic management of this particular case was proving to be efficacious in bringing about therapeutic and objective relief. Comparative objective evaluations inclusive of the initial evaluation and follow-up evaluations initially showed marked increases in ranges of motion within the first 2-3 months. Beyond that point, objective testing does not clearly show that the claimant was continuing to positively and significantly respond to the course of administered chiropractic care from an objective standpoint. Ranges of motion varied wildly with no established provocative incidents or exacerbatory events. Outcome assessment forms indicated initially moderate to severe disabilities, with follow-up exams showing sharply decreased values to around 10% disability. Further follow-up assessments indicated 50+% values, similar to intake values. Subjective pain levels remained in the severe range of 6-8/10. Even the comparative information contained within the FCEs, does not clearly indicate that the injured individual was significantly and positively responding to the course of chiropractic care from an objective standpoint as well.

Furthermore, it is documented that this injured individual had significant psychosocial overlay. The documentation does not suggest how this psychosocial overlay was addressed outside of a brief work hardening program. Similarly, the final DD evaluation indicated that the injured individual continues to exhibit positive Waddells signs.

Moreover, at least one consultative referral indicated that conservative measures had failed and that surgery should have been considered more fully at that time. Given the positive findings seen in the consultative reports and the positive discogram findings, it is not clear why surgery was not more heavily considered nor by what basis it was ruled out of the injured individuals treatment plan.

Lastly, the continuing course of chiropractic care clearly exceeds standards of care within the chiropractic profession in terms of duration of care. Even some of the more liberal standards and provisions for treatment established within the chiropractic community, inclusive of the Guidelines for Chiropractic Quality Assurance and Practice Parameters, state that 2-18 weeks of chiropractic care would be reasonable. These provisions are increased by a factor of up to 2 when severe pain and spinal pathologies are noted. Under the most liberal of standards of this particular set of guidelines, up to 36 weeks of chiropractic intervention could be considered as consistent with standards of chiropractic care. However, in this particular case, these guidelines were exceeded with care beginning 03/27/2002 through 08/20/2003, more than 72 weeks of chiropractic intervention. Moreover, even considering liberal treatment guidelines, as stated above, it is not clear from a review of the documentation that this injured individual was positively benefiting from an objective therapeutic standpoint from the continued course of chiropractic care.

In light of the arguments raised in the above discussion, this reviewer is in agreement with the previous denial of the above captioned dates of service.

The reviewing provider is a licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing chiropractor and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5)).

<p>In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U. S. Postal Service from the office of the IRO on this</p> <p style="text-align: center;">__4th__ day of __January__ 2004.</p> <p>Signature of IRO Employee: _____</p> <p>Printed Name of IRO Employee: _____</p>
