April 1, 2005
March 31, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT
Corrected disputed services and dates of service.

Re: Medical Dispute Resolution
MDR #: M5-05-1668-01
TWCC#:
Injured Employee:
DOI: 11/__/02

IRO Certificate No.: IRO 5055

Dear Ms. :

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme
General Counsel

GP:thh

REVIEWER'S REPORT
M5-05-1668-01

Information Provided for Review:
TWCC-60, Table of Disputed Services, EOB's
Information provided by Requestor:
- Office notes 06/12/03 – 12/09/04
- Physical therapy notes 01/12/04 – 03/07/05
- Electrodiagnostic studies 07/07/04 – 01/05/05
- Radiology reports 11/25/02 – 12/03/04

Information provided by Respondent:
- Correspondence & summary of position
- Designated doctor exams 04/22/04 & 09/21/04
- Peer reviews 01/30/03 & 04/14/04
- Independent medical evaluation 08/26/03

Clinical History:
This patient is a 35-year-old male construction manager who, on 11/__/02 suffered a work-related injury to his back. He was first treated with chiropractic care and physical therapy, but eventually underwent discectomy on 11/10/03, followed by post-surgical physical therapy and rehabilitation. The original surgery was successful in relieving the left leg pain, but not the lower back pain. He then had a series of ESIs that, too, were of little or no benefit, so he underwent a 2-level spinal fusion on 07/19/04 followed by more post-surgical physical therapy and rehabilitation.

Disputed Services:
Office/outpatient visits-est., therapeutic activities, massage therapy, chiropractic manipulation, therapeutic exercises, neuromuscular re-education, electrical stimulation other than wound, diathermy treatment, office consultation, **gait training**, and mechanical traction therapy during the period of **02/18/04 thru 08/03/04**.

Decision:
The reviewer agrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were not medically necessary in this case.

Rationale:
Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) As time progresses, there should be an increase in the active regimen of care, a decrease in the passive regimen of care and a decline in the frequency of care. (B) Home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency. (C) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (D) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment.

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. With documentation of improvement in the patient's condition and restoration of function, continued treatment may be reasonable and necessary to effect additional gains. In this case, there was no documentation of objective or functional improvement in this patient's condition and no evidence of a change of treatment plan to justify additional treatment in the absence of positive response to prior treatment. In fact, upon review of the "Daily Notes Report," there were repeated references to "neck pain unchanged from the last treatment, and the low back pain is the same as the last visit" and "unchanged from last visit." Therefore, expectation of functional restoration was not reasonable based on this documented lack of response.

Furthermore, the *Guidelines for Chiropractic Quality Assurance and Practice Parameters*[1] Chapter 8 under "Failure to Meet Treatment/Care Objectives" states, "After a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual procedures may no longer be appropriate and alternative care should be considered." Since this patient had been receiving post-operative therapy and rehabilitation in excess of this suggested time frame, in the face of an "unchanged" clinical presentation, the continued delivery of manual procedures after four weeks (2/18/04) was not supported as medically necessary.

Also in this case, there was no evidence to support the need for continued monitored therapy. Services that do not require "hands-on care" or supervision of a health care provider are not considered medically necessary services *even if* they were performed by a health care provider. Continuation of an unchanging treatment plan, performance of activities that can be performed as a home exercise program and/or modalities that provide the same effects as those that can be self applied, are not indicated. Any gains obtained in this time period would have likely been achieved through performance of a home program.

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[1] Haldeman, S; Chapman-Smith, D; Petersen, D *Guidelines for Chiropractic Quality Assurance and Practice Parameters,* Aspen Publishers, Inc.