

MDR Tracking Number: M5-05-0046-01

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 30, 2004.

The IRO reviewed office visits, manual therapy technique, chiropractic manipulation, therapeutic exercises, neuromuscular re-education, mechanical traction, and hot/cold pack therapy for dates of service 08/22/03 through 12/05/03 that were denied based upon "V".

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 \$460.00** 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 therapeutic exercises and neuromuscular re-education for dates of service 08/22/03 through 12/15/03 **were** found to be medically necessary. The chiropractic manipulation, mechanical traction, office visits, manual therapy and hot/cold pack therapy **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for office visits, manual therapy technique, chiropractic manipulation, therapeutic exercises, neuromuscular re-education, mechanical traction, and hot/cold pack therapy.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

On September 28, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

- CPT Code 99080-73 for date of service 09/15/03 and 10/20/03 denied as "V". Per Rule 129.5 the Work Status Report is a Commission required report; therefore, MDR has jurisdiction over these matters. Per Rule 133.106(f)(1) reimbursement in the amount of \$30.00 (\$15.00 x 2) is recommended.
- HCPCS Code E0745 for date of service 10/20/03. The insurance carrier submitted an EOB dated 11/03/03 denied this HCPCS code as "X388 – Pre-authorization was requested but denied for this service". The carrier stated that they had paid a total of \$450.00 rental on a N/M Stimulator and therefore, the requestor should have requested preauthorization. Per Rule 134.600(h)(10) reimbursement is not recommended.

This Order is hereby issued this 10th day of November 2004

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 8-28-01 through 12-28-01 in this dispute.

- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c);
- 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 08/22/03 through 12/05/03 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 Order is hereby issued this 10th day of November 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/mf

Enclosure: IRO Decision

November 4, 2004

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

REVISED REPORT
Addition of reference material that was omitted
from initial report.

Re: Medical Dispute Resolution
MDR #: M5-05-0046-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 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 certified in chiropractic and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Office visit 07/28/03
- Physical therapy notes 08/05/03 – 12/05/03
- FCE's 07/10/03- 10/31/03
- Nerve conduction studies 06/09/03 – 06/18/03
- Radiology report 06/12/03

Information provided by Respondent:

- Decision and order (not dated)
- Required medical exam 03/15/04
- Reconsideration 01/23/04
- Designated doctor exam 11/24/03
- Chiropractic modality review 11/05/03
- Peer review analysis 10/09/03
- Physical therapy review 08/20/03
- Required medical exam 07/02/03

Information provided by Physical Medicine Specialist:

- Office visits 05/28/03 – 07/18/03

- Physical therapy notes 06/02/03 – 07/18/03

Information provided by Pain Management Specialist:

- Office visit 02/18/04
- Procedure notes 09/10/03 – 10/09/03

Information provided by Chiropractor:

- Office note 06/16/03

Information provided by Counselor:

- Office notes 02/18/04 – 03/16/04
- Psychotherapy notes 03/16/04 – 04/06/04

Medical consultation 08/13/03.

Clinical History:

The claimant was working when she was involved in an accident on ___ that resulted in the injury to her lumbar spine. MR imaging of the lumbar spine on 06/12/03 revealed a 2-mm generalized bulging of the annular fibrosis at the L5/S1 level. The claimant consulted an M.D. on 06/18/03 and was advised to continue with active rehabilitation. Electrodiagnostics of the lower quarter performed on 06/18/03 that included a needle EMG and NCV were clinically unremarkable.

On 06/24/03 the claimant was advised that a course of epidural steroid injections were appropriate coupled with continued outpatient rehabilitation. Required medical evaluation of the claimant on 07/02/03 revealed that the injury to the lumbar spine following the ___ work event was preexisting. The claimant treated with the offices of her treating chiropractor from 08/01/03 through 12/05/03. The worker was diagnosed with a disc bulge at L5/S1 and left leg radiculopathy. Texas Workers Compensation Commission (TWCC) in a 12/15/03 contested case hearing decided that the claimant's lumbar disc bulge at L5/S1 was related to the ___ work injury. The claimant was evaluated by an M.D. on 02/18/04 and a chronic pain management program, behavioral counseling, and rehabilitation/physical therapy applications were deemed appropriate in the management of this worker's condition.

Disputed Services:

Office visits, manual therapy-tech, chiropractic manipulation, therapeutic exercise, neuromuscular re-education, mechanical traction and hot/cold pack therapy during the period of 08/22/03 thru 12/05/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

Not Medically Necessary:

Chiropractic manipulation, mechanical traction, office visits, manual therapy and hot/cold pack therapy during the period of 08/22/03 thru 12/05/03.

Medically Necessary

Therapeutic exercise and neuromuscular re-education during the period of 08/22/03 thru 12/05/03.

Rationale:

The management of this claimant was delayed by the carrier's denial of condensability pertaining to the 2-mm disc bulge at L5/S1 sustained by the claimant with the mechanism described in the medical records forwarded. Failure to administer proper invasive pain controls like an epidural injection series that was requested on 06/24/03 has led to chronic pain behaviors.

The provider's therapeutic algorithm that involved passive management of this claimant beyond the first 6-8 weeks of therapy is not appropriate. Passive management of this claimant includes manual therapy, chiropractic manipulation, manual traction, office visits, and hot/cold pack.

The management of this claimant with an active therapeutic algorithm some 4-6 months post-injury is appropriate and necessary. An active course of management was delayed significantly. Dismissal of this claimant to a home-rehabilitation program as opposed to clinically supervised therapeutics would have been contraindicated.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- Bellamy, R. *Compensation Neurosis; Financial Reward for Illness as Nocebo*. Clin Orthop 1997 Mar;(336):94-106.
- Frost II, et al. *Randomised controlled trial for evaluation of fitness programme for patients with chronic low back pain*. BMJ. 1995 Jan 21;310(6973):151-4..
- Karjalainen K, et al. *Multidisciplinary biopsychosocial rehabilitation for sub-acute low back pain among working-age adults*. Cochrane Database Syst Rev.2003;(2):CD002193.
- Roberts-Yates C. *The concerns and issues of injured workers in relation to claims/injury management and rehabilitation: the need for new operational frameworks*. Disabil Rehabil. 2003 Aug 19;25(16):898-907.
- Troyanovich SJ, et al. *Structural rehabilitation of the spine and posture: rationale for treatment beyond the resolution of symptoms*. J Manipulative Physiol Ther. 1998 Jan;21(1):37-50.