

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 09-01-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the **majority** of the medical necessity issues. 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. The ultrasound therapy and electrical stimulation **were** found to be medically necessary. The manual therapy, neuromuscular re-education, therapeutic exercises and office visits **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for ultrasound therapy, electrical stimulation, manual therapy, neuromuscular re-education, therapeutic exercises and office visits.

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 Medicare program reimbursement methodologies effective 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 date of service 09-03-03 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 Findings and Decision and Order are hereby issued this 3rd day of December 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO decision

November 23, 2004

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M5-05-0078-01 5278

CLIENT TRACKING NUMBER: M5-05-0078-01

Medical Review Institute of America (MRloA) 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 MRloA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRloA 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 MRloA for independent review.

Records Received:

Records Received From TWCC

Letter from Texas Workers' Compensation Commission to Medical Review Institute of America, dated 11/16/04, 1 page

TWCC notification of assignment, dated 10/6/04, 1 page

TWCC medical dispute form, dated 10/6/04, 1 page

TWCC medical dispute resolution request/response form, date stamped 9/01/04, 1 page

TWCC list of providers, 4 pages

TWCC table of disputed services, dated 9/03/03 through 12/31/03, 6 pages

Hartford Med Mgtmt Ctr., Explanation of Reimbursement of services from 9/03/03 to 10/16/03, 25 pages

TWCC notice of medical payment dispute from 9/03/03 to 10/16/03, date of audit 12/05/03, 1 page

Hartford Med Mgtmt Ctr., Explanation of Reimbursement of services from 10/24/03 to 11/01/03, 8 pages

TWCC notice of medical payment dispute from 10/24/03 to 11/01/03, date of audit 12/22/03, 1 page

Hartford Med Mgtmt Ctr., Explanation of Reimbursement of services from 11/04/03 to 11/20/03, 8 pages

TWCC notice of medical payment dispute from 11/04/03 to 11/20/03, date of audit 12/22/03, 1 page

Hartford Med Mgtmt Ctr., Explanation of Reimbursement of services, 11/19/03 to 12/13/03, 20 pages

TWCC notice of medical payment dispute from 11/19/03 to 12/13/03, date of audit 02/02/04, 1 page

Hartford Med Mgtmt Ctr., Explanation of Reimbursement of services, 12/17/03 to 12/31/03, 15 pages

TWCC notice of medical payment dispute from 12/17/03 to 12/31/03, date of audit 03/05/04, 1 page

Letter to ask for dispute to MRloA from Pain & Recovery Clinic of North Houston, dated 10/19/04, 1 page

TWCC table of disputed services, dated 9/03/03 through 12/31/03, 6 pages

TWCC peer review report, dated 10/02/03, 10 pages,

Records Received From All Medical Providers

Letter of medical necessity & request for reconsideration, from Dr. Nestor Martinez at Pain & Recovery Clinic, dated 3/03/04, 11 pages

Initial medical report from Dr. Bergeron, dated 09/03/02, 4/17/03, 4 pages

History/Physical and EMG summary from Dr. Weiss, dated 08/27/02, 2 pages

Memorial MRI & Diagnostic report dated 09/05/02, 4 pages

North Houston Imaging Center multiple visit dates beginning on 10/11/02, 10/22/02, 12/15/03, 02/02/04, 02/06/04, 11 pages
EMG/NCV summary report, Dr. Weiss, dated 10/25/02 and 11/08/02, 4 pages
Gulf Coast Diagnostics Dr. Berk, dated 12/10/02, 1 page
Texas ambulatory surgical center operative report, dated 02/07/03, 1 page
Orthopedic consultation by Dr. McAlister, dated 02/13/03, 3 pages
Mainland Pain and Rehab, Dr. Lewis, Initial consultation, dated 01/06/03, 3 pages
Mainland Pain and Rehab, Dr. Lewis, clinical note, dated 02/13/03, 1 page
Gulf Coast Orthopaedics–William J. Lowery, PAC., dated 08/27/02, 02/18/03, 03/19/03, 03/25/03, 04/8/03, 04/17/03, 06/26/03, 07/31/03, 23 pages
Workers Healthcare follow-up medical report, dated 02/19/03, 03/05/03, 04/01/03, 05/01/03, 05/16/03, 06/05/03, 06/24/03, 07/17/03, 08/11/03, 08/13/03, 08/29/03, 13 pages
Clinical Pathology Laboratories services, dated 04/17/03, 1 page
Gulf Coast Orthopaedics–Dr. Ghadially, dated 02/04/03, 06/10/03, 5 pages
Employee's request to change treating doctors, dated 8/22/03, 09/19/03, 2 pages
Pain and recovery clinic, initial medical report, Dr. McMillan, dated 09/03/03, 3 pages
Pain and recovery clinic, daily progress notes, dated 09/04/03 through 12/31/03, 47 pages
Pain and recovery clinic, initial medical report, C. Meekins, LPT, dated 09/15/03, 3 pages
Pain and recovery clinic, treatment plan letter to TWCC, Dr. McMillan, dated 09/19/03, 1 page
Pain and recovery clinic, progress notes, C. Meekins, LPT, dated 10/29/03, 12/10/03, 01/30/04, 03/01/04, 04/12/04, 11 pages
Pain and recovery clinic, referral to Dr. Mohamed from Dr. McMillan, dated 10/29/03, 1 page
Pain institute of Texas, initial consultation note, Dr. Mohamed to Dr. McMillan, dated 10/30/03, 4 pages

Pain institute of Texas, follow-up note, Dr. Mohamed, dated 11/20/03, 12/18/03, 03/25/04, 9 pages
Letter from Hartford for disputed injury, dated 11/25/03, 1 page
Pain and recovery clinic, medical necessity for MRI from Dr. McMillan, dated 12/08/03, 1 page
Letter to ___ from Dr. Nowlin, dated 01/05/04, 1 page
Orthopedic care center, initial visit notes, Dr. Jarolimek, dated 01/06/04, 2 pages
Pain and recovery clinic, subsequent medical report, Dr. McMillan, dated 01/27/04, 02/03/04, 03/04/04, 04/06/04, 05/26/04, 06/30/04, 12 pages
TWCC status report dated 9/03/02, 9/14/02, 10/8/02, 10/22/02, 12/11/02, 01/22/03, 02/12/03, 2/19/03, 3/05/03, 4/01/03, 5/1/03, 5/10/03, 6/05/03, 6/24/03, 7/17/03, 8/25/03, 20 pages
TWCC status report dated 01/27/04, 03/04/04, 04/06/04, 05/26/04, 06/30/04, 4 pages
Downtown plaza imaging report, dated 02/02/04, 3 pages
Letter to ___ from Dr. LeCompte, dated 02/06/04, 2 pages
Letter to Hartford from Dr. Martinez, dated 02/11/04, 2 pages
Letter to Hartford from Dr. LeCompte, dated 02/26/04, 6 pages
Orthopedic care center, referral form, Dr. Jarolimek, dated 03/04/04, 1 page
TWCC form for request for designated doctor, dated 03/08/04, 3 pages
TWCC form for request for designated doctor copy to ___, dated 03/31/04, 1 page
TWCC referral acknowledgement to Dr. Martinez, dated 04/01/04, 1 page
Pain and recovery clinic, analysis of injured employee's condition, Dr. McMillan, dated 04/08/04, 12 pages
Neurologic Diagnostic Lab report, dated 04/16/04, 14 pages
TWCC report of medical evaluation, dated 04/28/04, 1 page
Lone Star bone and joint clinic, designated doctor evaluation, Dr. Stafford, dated 05/06/04, 4 pages
Orthopedic care center, initial evaluation, Dr. Jarolimek, dated 05/06/04, 2 pages

Orthopedic care center, follow-up report, Dr. Jarolimek, dated 06/24/04, 2 pages
Intracorp case review by Dr. Fahey, dated 10/02/03, 5 pages
Intracorp re-open for review of medications, dated 11/03/03, 2 pages
PRN, Independent medical review specialists, Dr. Brenman, dated 10/29/03, 4 pages
Functional capacity evaluation, testing, consent form, summary, Dr. Barnett, dated 08/03/04, 24 pages
TWCC, release of injured worker from Dr. McMillan to Dr. Barnett, dated 07/16/04, 2 pages
Behavioral consult for work hardening program, Dr. Barnett, dated 08/17/04, 2 pages
Pain institute of Texas, letter for request for reconsideration, Dr. Mohamed, dated 07/07/24, 4 pages
Lone Star bone and joint clinic, fax cover sheet, dated 8/13/04, 2 pages
Workers Healthcare, letter of medical necessity, Dr. Parrish, dated 03/13/03, 2 pages
HCFA, Dr. LeCompte, DOS 02/18/04 \$700.00, 1 page
Unimed fax for Psychological evaluation, Elizabeth Cobb, 8/25/04, 8 pages
Hartford review determination, dated 08/31/04, 1 page
Pre-Auth from Dr. Barnett, dated 8/26/04, 2 pages
Letter of medical necessity, Dr. Barnett, dated 08/24/04, 3 pages
Hartford review determination, dated 08/24/04, 4 pages
Pre-Auth fax from Dr. Mohamed 3 steroid injections to left shoulder, dated 12/29/03, 02/04/04,
03/01/04, 3 pages
Pre-Auth fax from Dr. Mohamed 3 steroid injections to cervical area, dated 11/25/03, 1 page
Letter from Hartford to Dr. Nowlin, request for him to see ____, dated 02/03/04, 1 page

Letter of authorization from Hartford to Texas Ambulatory Surgical Ctr, dated 03/11/03, 1 page
Hartford review determination, dated 01/22/04, 1 page
Fax cover sheet from Downtown Plaza Imaging Center, dated 01/22/04, 9 pages
Chartwell Distributors, DME request, prescription & letter of medical necessity, dated 11/03/03, 3 pages
Chartwell Distributors, DME request, invoice for lumbar pad & cervical collar, dated 11/20/03, 3 pages
Hartford review determination, dated 12/29/03, 1 page
Hartford letter to Dr. Bergeron, dated 12/02/03, 1 page
Hartford review determination, repeat MRI left shoulder, #73221, dated 12/09/03, 1 page
Workers Healthcare -Northbelt, Dr. Jonathan Group, DOS 1/13/03, 1/17/03, 1/22/03, 6/25/03, 6/30/03
7/01/03, 7/9/03, 7/10/03, 7/30/03, 8/27/03- 8/29/03, 18 pages
Workers Healthcare -Northbelt, progress notes, Dr. Devin Parrish, dated 9/4/02, 9/05/02, 9/06/02,
9/09/02, 9/11/02, 9/12/02, 9/13/02, 9/16/02, 9/17/02, 9/23/02, 9/25/02, 9/27/02, 10/01/02,
11/13/02, 11/15/02, 11/19/02, 11/20/02-11/27/02, 12/04/02,12/11/02, 12/17/02, 12/19/02,
12/26/02, 1/10/03, 01/24/03, 01/27/03, 8/14/03, 8/15/03, 45 pages
Heights Therapy and Rehabilitation Center, Spencer Gould, PAC, dated 9/03/02, 1 page
Fax from The Hartford to Dr. Bergeron for return to work w/restrictions, dated 05/02/03, 1 page
Gulf Coast Orthopaedic prescription dated 05/13/03, 1 page
Texas ambulatory surgical center operative report, Dr. Ghadially, dated 03/17/03, 4 pages
Gulf Coast Orthopaedics-Dr. Ghadially Consult, dated 11/19/02, 4 pages
Gulf Coast Orthopaedics-Dr. Ghadially follow-up, dated 03/11/03, 4 pages
Medical consult by Dr. Crawford Sloan, dated 05/02/02, 3 pages
Dr. James Weiss, EMG/NCV report dated 11/8/02, 4 pages
Follow-up medical consultation, Dr. John Bergeron, dated 01/22/03, 2 pages
Houston Center for Pain medicine, Dr. Jasmin Erlichman-Psychiatric assessment, dated 12/05/02, 2 pages
Houston Center for Pain medicine, Psychiatric- progress notes, dated 12/18/02, 01/10/03, 01/17/03,
01/24/03, 9 pages

Records Received From Hartford Insurance

The Hartford, Request for certification of Shoulder arthroscopy, dated 2/19/03, 2 pages

The Hartford, Request; Biofeedback by EMG, for skin, psyc rx from 12/13/02–12/16/02 & 1/24/03, 4 pgs

The Hartford, Request for CPM machine w/lambswool pad 3/11/03, 4 pages

The Hartford, Request for epidural inj w/fluoroscopy on 1/21/03, dated 01/23/03, 2 pages

Fax from Houston Ctr for Pain med to Crawford & Co., for psyc svcs on 12/5/02, dated 12/11/02, 5 pgs

Workers Healthcare Center, referral slip to Dr. Erlichman, for psyc evaluation, dated 11/13/02, 1 page

Employer's first report of injury or illness for ____, dated 9/05/02, 1 page

Duplicate submission of paperwork, 512 pages

Summary of Treatment/Case History:

The patient had a slip and fall at work, at the time of record there was no specific body part injury recorded. The date of the non – specific injury is recorded as ____.

Since that date the injury started as a cervical injury, then moved to a recorded shoulder injury, left elbow and finally a lower back injury. The patient has received X-rays, NCV, and MRI in multiples on multiple dates for these areas.

It is interesting that on the date of 02/02/2004 there are records from North Houston Imaging Center 237 north loop west (713) 861–8183 that states services to the patient were delivered for a Left Shoulder with Intra–Articular Injection of Gadolinium and Post MRI of the Left Shoulder.

Also on this same date of 02/02/2004 from the Downtown Plaza Center 2102 Crawford (713) 752–2308 there is also a report stating that MRI with gadolinium were also taken of the patient.

On neither report is there mention of the other facility, yet procedures for the same service appear to have been delivered.

On 10/11/02 cervical spine revealed broad base bulges on multiple levels c3 thru c7. No stenosis.

On 10/22/02 lumbar spine MRI shows disk dessication with bulges and protrusions, also a grade one spondylothesis is noted.

11/08/02 Dr. James Weiss Obtained NCV that reported a compensable injury that caused severe l5/s1 radiculopathy.

Since that time there have been multiple visits, exams, treatments including epidural to cervical on 2/07/03 Texas ambulatory Surgical Center Dr. Edward Lewis.

Bursectomy and acromioplasty on 3/17/2003 Texas Ambulatory Surgical Center Dr. James Ghadially, MD

Questions for Review:

1. Please advise medical necessity of manual therapy, neuromuscular re–education, therapeutic exercises and office visits. Please also address medical necessity of ultrasound (#97035) and electrical stimulation (#97032) for dates of service 9/3/03.

Explanation of Findings:

The findings summary of this report is of that which follows:

1. Original Injury Date of ___
2. Unspecified Injury Area
3. Complains of Injury over time to the neck, left shoulder, left elbow and then the low back.

According to textbook, the normal treatment time for all of the above tissue injuries maximum medical improvement should have been reached at 6 months post the last surgical service, which is recorded as a bursectomy acromioplasty on 3/17/2003.

Question 1: Please advise medical necessity of manual therapy, neuromuscular re-education, therapeutic exercises and office visits. Please also address medical necessity of ultrasound (#97035) and electrical stimulation (#97032) for dates of service 9/3/03.

Post the last recorded date of 3/17/2003 patient should have reached MMI. Soft and other tissues for this injury, which also includes any injury of a lesser nature, will have reached their maximum expected physiological improvement by 6 months being the date of 9/17/2003. After that point in time a home program for strengthening, exercise, stretching is commonly accepted as responsible care. Therefore, services to the shoulder region of manual therapy, neuromuscular re-education, and therapeutic exercise performed in office and office visits are not considered necessary. Treatments of #97032 (electrical stimulation) and #97035 (ultrasound) dated 9/03/2003 should be included as part of the covered and medically necessary treatments. The decision is to certify treatments prior to 9/17/2003 and are to include the #97032 and #97035 administered on the date of 09/03/2003.

Conclusion:

Decision to Certify:

The decision is to certify treatments prior to 9/17/2003. According to textbook protocol and treatment time allotments for given reviewed injury, the payment for #97035 and #97032 services given to the patient on the date of 9/03/2003 fall into the appropriate time for treatment. The reviewed applicable physical therapy that occurred prior to 9/17/2003 is to be certified as medically necessary.

Decision to Not Certify:

The decision is to not certify treatments as stated in question #1 past 9/17/2003 for treatments of Manual Therapy, Neuromuscular Re-Education, Therapeutic Exercise and office visits are not medically necessary.

Standard treatment protocols of such involvement of these tissues are written for up to 6 months post-operative as a standard. After this, home care and exercise are suggested as recommended.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

Chiropractic Diagnosis and Management (Dana J. Lawrence) page 459 forth paragraph. Post rotator cuff surgery (operative intervention) conservative rehab of the shoulder may be from 3-6 months. After that, if unsuccessful, other procedures should be sought.

References Used in Support of Decision:

Journal of Shoulder and Elbow Surgery
Journal of Sports Medicine
Campbell's Orthopedic Text
Soft Tissue and Rheumatic Pain, Recognition, Management Prevention
Medline Plus Rotator Cuff Repair Expectations after Surgery
Chiropractic Diagnosis and Management

The physician providing this review is board certified in chiropractic medicine. The reviewer also holds additional certifications in Acupuncture and Orthopedics. The reviewer is a member of their state chiropractic association and is certified to provide reviews for the workers compensation commission as a designated doctor, RME and IME. The reviewer has been in active practice since 1998.

MRloA 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 MRloA 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 MRloA 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 MRloA 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 MRloA 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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