

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 31, 2004.

Correspondence submitted by Constance Wheat revealed the carrier has paid for the office visits rendered on 9/24/03 through 11/17/03. Therefore no further action is required.

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 \$650.00** 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.

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, therapeutic exercises, manual therapy techniques, and neuromuscular re-education rendered from 9/26/03 through 12/29/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the electrode diagnostic studies, office visits, therapeutic exercises, manual therapy techniques, and neuromuscular re-education

ORDER

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 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 Order is applicable to dates of service 11/21/03 through 12/29/03 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 Order is hereby issued this 1st day of November 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

Enclosure: IRO decision

October 20, 2004

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M5-05-0083-01

CLIENT TRACKING NUMBER: M5-05-0083-01 5278

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 from State

Notice of IRO Assignment dated 9/24/04

Medical Dispute Resolution Request/Response dated 9/21/04

Letter from Texas Workers' Compensation Commission to Medical Review Institute of America dated 9/24/04

Medical Dispute Resolution Request/Response dated 8/31/04

Table of disputed services dated 9/24/03 to 12/29/03

Explanation of Review dated 9/19/03 to 12/29/03

Records from Insurance Company

Letter from St. Paul Travelers to Medical Review Institute of America dated 9/29/04

Medical record review from Review Med dated 9/13/03

History and physical from Jeremiah Twomey, MD dated 11/20/03

Records from Pain & Recovery Clinic

Letter from Pain & Recovery Clinic to Medical Review Institute of America dated 10/13/04

Table of disputed services dated 9/24/03 to 12/29/03

Statement of medical necessity dated 6/27/03

MRI cervical spine report dated 7/17/03

MRI lumbar spine report dated 7/17/03
Texas Workers' Compensation Work Status Report dated 7/22/03
Employee's request to change treating doctors dated 7/28/03
Initial medical report from Pain and Recovery Clinic dated 7/23/03
Texas Workers' Compensation Work Status Report dated 7/23/03
Payment of compensation or notice of refused/disputed claim dated 7/28/03
Functional Capacity Assessment report dated 8/14/03
Initial evaluation from Pain and Recovery Clinic dated 8/15/03
Texas Workers' Compensation Work Status Report dated 8/23/03
Benefit dispute resolution from Pain & Recovery Clinic dated 8/25/03
Texas Workers' Compensation Work Status Report dated 9/22/03
Subsequent Medical Report from Pain and Recovery Clinic dated 9/22/03
Referral request from Pain & Recovery Clinic dated 9/24/03
Physical Therapy Progress Notes from Pain and Recovery Clinic dated 9/24/03 to 9/29/03
Initial consultation note from The Pain Institute of Texas dated 10/2/03
Operative report dated 10/15/03
Texas Workers' Compensation Work Status Report dated 10/20/03
Subsequent Medical Report from Pain and Recovery Clinic dated 10/20/03
Claimant's report from Resource Life Insurance Company dated 10/20/03
Follow-up note from The Pain Institute of Texas dated 10/23/03
Daily progress note from Pain & Recovery Clinic of North Houston dated 10/23/03
Patient profile from Neurologic Diagnostic Labs dated 10/24/03
Initial Ombudsman Appointment with Injured Employee after Contact from Texas Workers' Compensation Commission dated 10/24/03
Daily progress notes from Pain & Recovery Clinic of North Houston dated 10/24/03 to 10/31/03
Designated doctor assignment from Texas Workers' Compensation Commission dated 11/4/03
Operative report dated 11/5/03
Analysis of injured employee's medical condition from Dean McMillan, MD dated 11/12/03
Follow-up note from The Pain Institute of Texas dated 11/13/03
Daily progress note from Pain & Recovery Clinic of North Houston dated 11/17/03
Operative report dated 11/19/03
Evaluation from Jeremiah J. Twomey, MD dated 11/20/03
Texas Workers' Compensation Work Status Report dated 11/21/03
Daily progress notes from Pain & Recovery Clinic of North Houston dated 11/21/03 to 11/26/03
Texas Workers' Compensation Work Status Report dated 12/4/03
Follow-up note from The Pain Institute of Texas dated 12/4/03
TWCC-69 report of medical evaluation dated 1/6/04
Report of medical evaluation from Churchill Evaluation Centers dated 12/10/03
Review of medical history and physical exam dated 12/10/03
Daily progress notes from Pain & Recovery Clinic of North Houston dated 12/15/03 to 12/29/03
Texas Workers' Compensation Work Status Report dated 1/6/04
Subsequent Medical Report from Pain and Recovery Clinic dated 1/6/04
Follow-up note from The Pain Institute of Texas dated 1/8/04
Follow-up note from The Pain Institute of Texas dated 1/22/04
Electrodiagnostic evaluation dated 1/26/04
Follow-up note from The Pain Institute of Texas dated 2/2/04
Texas Workers' Compensation Work Status Report dated 2/5/04

Subsequent Medical Report from Pain and Recovery Clinic dated 2/5/04
Work Hardening Assessment Psychosocial History dated 2/16/04
Payment of Compensation or Notice of Refused/Disputed Claim dated 2/18/04
Designated doctor assignment from Texas Workers' Compensation Commission dated 2/23/04
Letter from The St. Paul Property and Liability Insurance to Richard Neel, MD dated 3/1/04
Analysis of injured employee's medical condition from Pain & Recovery Clinic of North Houston dated 3/3/04
Texas Workers' Compensation Work Status Report dated 3/4/04
Notice of rescheduled appointment from Texas Workers' Compensation Commission dated 3/11/04
Review of medical history and physical exam dated 3/19/04
TWCC-69 report of medical evaluation dated 3/19/04
Report of medical evaluation from Churchill Evaluation Centers dated 3/19/04

Summary of Treatment/Case History:

___ was involved in an industrial related injury on ____. He was working for _____ as a construction laborer and pulling on a piece of Rebar when the Rebar broke. He fell backwards, and had an alleged injury to lower back and neck. The patient has undergone extensive conservative care, epidural steroid injections, lumbar facet joint injections, MRI, and electrodiagnostic studies. The cervical MRI dated 7/17/03 mild narrowing of the interspace of C5-C6 and mild spondylosis. The lumbar MRI revealed a L5-S1 disc bulge.

The patient was evaluated by designated doctor Richard Neel, M.D. on 3/19/04. Dr. Neel estimated maximum medical improvement to be on or about 7/19/04 and recommended deficiency and orthopedic surgeon as the patient has failed conservative care.

Questions for Review:

Please review the following for medical necessity:

1. Dates of service 9/26/03 through 12/29/03: office visits (#99212), therapeutic exercise (#97110), manual therapy techniques (#97140), and neuromuscular reeducation (#97112).

Explanation of Findings:

Please review the following for medical necessity:

Dates of service 9/26/03 through 12/29/03: office visits (#99212), therapeutic exercise (#97110), manual therapy techniques (#97140), and neuromuscular reeducation (#97112).

Based on the current available documentation, specifically the 12/10/03 designated doctors report and electrode diagnostic studies, office visits, therapeutic exercises, manual therapy techniques, neuromuscular reeducation from 9/26/03 through 12/29/03 are medically necessary.

Based on the current available documentation, specifically the designated doctors 12/10/03 report, conservative care of any form beyond 1/10/04 is not medically necessary.

Conclusion/Decision to Certify:

Based on the current available documentation, specifically the 12/10/03 designated doctors report and electrode diagnostic studies, office visits, therapeutic exercises, manual therapy techniques, neuromuscular reeducation from 9/26/03 through 12/29/03 are medically necessary.

Conclusion/Decision to Not Certify:

Based on the current available documentation, specifically the designated doctors 12/10/03 report, conservative care of any form beyond 1/10/04 is not medically necessary.

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

Milliman and Roberts care guidelines

References Used in Support of Decision:

Procedural Utilization facts; Chiropractic Care Standards, a Reference Guidelines

The physician providing this review is a Doctor of Chiropractic. The reviewer is national board certified in Physiotherapy and is certified in Acupuncture. The reviewer is a member of the American Academy of Disability Evaluating Physicians (AADEP) and is on the approved doctor list for the Texas Worker's Compensation Commission. The reviewer has been in active practice for 12 years.

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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