MDR Tracking Number: M5-05-0192-01

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 9-14-04.

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.

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 on 9-15-03 and 9-29-03 **were found** to be medically necessary. The therapeutic exercises, manual therapy, massage, joint mobilization myofascial release and hot\cold packs from 9-11-03 through 10-22-03 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees 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 9-15-03 and 9-29-03 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 Decision and Order is hereby issued this 17th day of December, 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da
Enclosure: IRO decision

December 13, 2004

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

Re: Medical Dispute Resolution
MDR #: M5-05-0192-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. Lopez:

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
Secretary & General Counsel
GP:thh

REVIEWER'S REPORT
M5-05-0192-01
10/13/04

Information Provided for Review:
TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Correspondence
- Office note 12/17/03
- Physical therapy notes 09/10/03 – 10/22/03

Information provided by Respondent:

- Required medical exam 10/08/03

Information provided by Hand Surgeon:

- Office notes 04/23/03 – 07/07/03

Clinical History:
The patient is a 44-year-old right-handed male who, on ___, was working when he injured his right upper extremity and lacerated his wrist in two places. After being initially treated and sutured at the emergency room, his wounds eventually became infected, requiring an irrigation and debridement procedure ("I & D") performed by a hand surgeon in early April 2003. He eventually presented to a doctor of chiropractic for post-operative physical therapy and rehabilitation. He was deemed MMI with a 5% whole-person impairment on 12/01/03.

Disputed Services:
Exercises, manual therapy, massage, office visits, joint mobilization, myofascial release and hot/cold pack therapy during the period of 09/11/03 thru 10/22/03

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

Rationale:
According to the medical records submitted for review, there was adequate documentation supplied indicating that a compensable injury had occurred to the patient's right upper extremity. Therefore, it was medically necessary that the treating doctor perform periodic evaluations of the patient's status. However, insofar as the rest of the services in dispute were concerned, 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) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (E) 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. However, in this case, there was no documentation of objective or functional improvement in this patient's condition. Rather, daily treatment notes were vague and unsubstantiated, and devoid of any real useful qualitative measurements. Specifically, daily notes contained language such as, "Patient's range of motion is better…strength is still not there" or "The patient states that his wrist and hand feels a lot better. The patient states that he is feeling a little bit better" (directly from Progress Report dated 09/10/03). Even in his reevaluation, dated 09/15/03, there was no range of motion measurements noted with which to document functional improvement. In other words, there was no documentation or supporting evidence submitted in this case to demonstrate any significant continuing benefit. And, there was nothing in the records whatsoever addressing any kind of home or self care therapy. In the absence of objective measurement of functional improvement, nor measurements of even subjective improvement, medical necessity for any treatment cannot be supported.

Furthermore, the records did not just lack any submitted documentation establishing medical necessity, they also failed to establish any over-all improvement in the functional status as it pertained to returning this patient to work. There was also no provided end-point for further treatment, nor any notation for review that outlined plans to reduce treatment frequency and return the patient to work that would thereby substantiate the need for the services in dispute.

Finally, 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." As already discussed, the records submitted were devoid of documented improvement, and the dates of service in dispute at issue here extend well beyond the four week trial described in this referenced text.

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