

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: 453-05-4252.M5

MDR Tracking Number: M5-05-0290-01

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, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 09-20-04.

The IRO reviewed office visits, x-ray, stimulation, ultrasound, studies, manual therapy, exercises, gait training and activities rendered from 01-30-04 through 07-16-04 that were denied based upon "V".

The IRO determined that office visits, two units of passive care and two units of active care from 01-29-04 through 02-19-04 **were** medically necessary. The IRO determined that chiropractic or rehabilitative care beyond 02-19-04 **was not** medically necessary as well as the initial examination and x-rays.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Consequently, the requestor is not owed a refund of the paid 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 not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12-30-04, 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 99213 date of service 03-04-04 denied with denial code "F" (Fee guideline MAR reduction). Payment in the amount of \$68.24 is indicated per the EOB from the carrier. The MAR per the Medicare Fee Schedule effective 08-01-03 for code 99213 is \$68.24 (\$54.59 X 125%). No additional reimbursement recommended.

CPT code 99213 dates of service 04-14-04 and 05-10-04 denied with denial code "N" (not appropriately documented). The requestor per Rule 133.307(g)(3)(B) submitted documentation to support documentation criteria. Reimbursement is recommended per the Medicare Fee Schedule in the amount of \$136.48 (\$54.59 X 125% = \$68.24 X 2 DOS).

CPT code 99455-V5 date of service 06-03-04 denied with denial code "F" (Fee guideline MAR reduction). No payment has been made by the carrier. Per Rule 134.202(e)(6)(B) reimbursement is recommended in the amount of \$505.00 per the Medicare Fee Schedule.

This Findings and Decision is hereby issued this 20th day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

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 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 Decision is applicable for dates of service 01-30-04 through 06-03-04 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 20th day of January 2005.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

Enclosure: IRO Decision

IRO Medical Dispute Resolution M5 Retrospective Medical Necessity IRO Decision Notification Letter

Date: December 16, 2004
Injured Employee:
MDR #: M5-05-0290-01
TWCC #:
MCMC Certification #: 5294

Requested Services: office visits, x-ray, stimulation, ultrasound, studies, manual therapy, exercises. gait training and activities

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of the above Requested Service.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Dispute Resolution on 12/15/2004 concerning the medical necessity of the above references requested service hereby find the following:

A course of care, outlined and explained below, to include limited office visits, two units of passive care and two units of active care from 01/29/2004 through 02/19/2004, three weeks, would be recommended and opined as medically necessary and appropriate. The initial examination as well as the x-rays are not certified as medically necessary and are not substantiated within the documentation.

No chiropractic or rehabilitative care represented within the documentation beyond 02/19/2004 is certified as medically necessary.

This is based on the following:

- *Medical Dispute resolution request/response form
- *Table of disputed services
- *Explanation of benefits audit dated 08/25/2004
- *Corner Stone Clinic letter from Dr. Smith, DC dated 10/22/2004
- *Cornerstone Clinic initial evaluation form dated 01/13/2003
- *Designated Doctor evaluation, Dr. Kyle Jones dated 07/30/2004, 03/29/2004
- *Universal Medical Evaluators FCE dated 08/03/2004
- *Report of Medical Evaluation by Dr. Smith, DC dated 06/08/2004
- *Medical note from Dr. Jalali, DC dated 01/22/2004
- *Progress notes from Dr. Jalali, DC dated 01/22/2004 through 12/09/2003
- *Metro Radiology Imaging report of right ankle dated 03/22/2004
- *Patient report for selected patients dated 02/24/2004 through 05/28/2004
- *Work conditioning/hardening and rehabilitation work sheet with routine examples of exercises 02/04/2004 through 05/26/2004
- *Cornerstone rehabilitation exam forms dated 02/04/2004 through 05/28/2004

There are multi-faceted factors involved in this case. Firstly, the records indicate that the injured individual was receiving chiropractic care, or at least consultation, from two different providers from 01/13/2004 through 01/22/2004. The injured individual presented to the office of the second attending physician for what appears to be the first examination and/or treatment on 01/29/2004. The examination dated 01/29/2004 is cursory at best, and does not provide but scant clinical information. The examination billed, 99205, is not substantiated within the documentation. Therefore, the examination dated 01/29/2004 is not substantiated as to medical necessity and/or appropriateness. Also, the x-ray examination dated 01/29/2004 is an obvious repeat of previously obtained studies which were also negative. The x-ray studies are obviously not serial studies and are apparently an unnecessary duplication of services and are therefore not recommended as appropriate or medically necessary. A trial of care, however, would be appropriate, but should be commensurate with the injury, diagnosis,

and lingering symptomatology and consistent with standards of care and practice within the chiropractic profession and generally medical community. The course of care represented in the documentation, is not consistent with the mechanism of injury, extent of injury, or nature of lingering symptomatology represented in the documentation. A course of care to include a limited office visit, up to two units of passive care (to include physical modalities (such as ultrasound and stimulation), massage, spray and stretch and myofascial release), up to two units of active care (to include therapeutic exercises and/or neuromuscular re-education) would be consistent with an uncomplicated soft tissue injury to one body part of one lower limb. Furthermore, the injured individual had already completed 6 weeks of care under the administration of the initial chiropractic provider. However, as there were lingering deficits remaining and the injured individual had not received active care as of 01/29/2004, the course of care outlined above would be opined as medically necessary. During the course of care under the administration of the second chiropractor, there are no indications that any subsequent examinations were performed to objectively demonstrate that the injured individual was progressing. Similarly, there is no functional assessment to develop a baseline of data and ascertain if progress was being achieved. As there are no subsequent examinations, care beyond 02/19/2004 is not certified as medically necessary or appropriate. This is consistent with ACOEM guidelines Chapters 3 and 14.

As there is no documentation to indicate significant gait alteration, there is no substantiation for gait training or other special studies.

Lastly, from a retrospective standpoint, an FCE dated 07/30/2004 revealed indications of examinee submaximal effort.

The reviewing provider is a Licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing chiropractor and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5).

In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of the IRO on this

16th day of December 2004.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____