THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-05-3359.M5

MDR Tracking Number: M5-05-0306-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 9-21-04.

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.

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 manipulations, therapeutic procedures, modalities, electrical stimulation, and office visits were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or 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 9-17-03 thru 10-8-03 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 3rd day of December 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division
DZT/dzt

Enclosure: IRO Decision

November 2, 2004

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M5-05-0306-01
CLIENT TRACKING NUMBER: M5-0306-01 5278

AMENDED REVIEW

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

MRIoA 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 MRIoA for independent review.

Records Received:
Conflict of Interest agreement signed by reviewer, 1 page

Records Received From TWCC
IRO request, dated 10/05/04, 1 page
Confirmation that IRO request was received, dated 10/05/04, 1 page
Notice of IRO, 1 page
Medical dispute resolution request, dated 9/21/04, 1 page
List of physicians, 1 page
Table of disputed services, 11 treatments from 9/17/03 through 10/8/03, 2 pages
EOB's from 9/12/03 through 9/24/03 and 9/26/04 through 10/8/03, 6 pages
Records Received From Client
Fax from attorneys (Loughlin & Swanson), dated 10/11/04, 3 pages
Consultant review from John Braswell, D.C. dated 8/6/03, 3 pages

Examination from James Hood, M.D., to Denise Limon (ins. Co.), dated 2/2/04, 3 pages
Records Received From Providers
Letter from Connie Wheat for Jack Barnett, D.C., dated 10/25/04, 1 page
Table of disputed services, 11 treatments from 9/17/03 through 10/8/03, 2 pages **DUPLICATE**
Consultant review from John Braswell, D.C. dated 8/6/03, 3 pages **DUPLICATE**
TWCC Notice of refused/disputed claim, John Braswell, D.C., dated 8/15/03, 1 page
Letter from Dr. James Hood, dated 02/02/04, 3 pages
TWCC Notice of refused/disputed claim, Dr. James Hood, dated 2/05/04, 1 page
Peer review dispute from Jack Barnett, D.C., dated 8/28/03, 2 pages
Requesters position statement, Connie Wheat for Jack Barnett, D.C. , no date, 4 pages
Initial medical report, Jack Barnett, D.C., dated 6/20/03, 3 pages
TWCC status report forms dated, 6/20/03, 08/29/03, 11/26/03, 01/27/04, 4 pages
Diagnostic Radiology of Houston, x-rays of shoulder, left hand & forearm, dated 06/23/03, 2 pages
Diagnostic Radiology of Houston, MRI's of shoulder, left hand & forearm, dated 07/11/03, 2 pages
Office notes from Dr. Jarolimek, dated 07/19/03, 2 pages
Subsequent Medical Exam by Jack Barnett, D.C., dated 08/08/03, 3 pages
Peer review dispute from Jack Barnett, D.C., dated 8/28/03, 2 pages **DUPLICATE**
Subsequent Medical Exam by Jack Barnett, D.C., dated 09/08/03, 3 pages
Progress notes from Airline Chiro and Rehab, dated, 9/12,15, 17, 19, 22, 24/03, 7 pages
Office notes from Dr. Jarolimek, dated 09/25/03, 3 pages
Progress notes from Airline Chiro and Rehab, dated, 9/26, 29/03, 10/1, 3, 6, 8,/03, 7 pages
TWCC Report of Medical Evaluation, Jack Barnett, D.C., dated 11/20/03, 1 page
Designated doctor evaluation, Dr. Aaron Levine, dated 10/10/03, 3 pages
Subsequent Medical Exam by Jack Barnett, D.C., dated 10/13/03, 4 pages
Muscle Testing Exam by Jack Barnett, D.C., dated 10/24/03, 13 pages
Subsequent Medical Exam by Jack Barnett, D.C., dated 11/10/03, 3 pages
Functional Capacity Evaluation Summary by Jack Barnett, D.C., dated 09/08/03, 26 pages
Office notes from Dr. Jarolimek, dated 11/20/03, 2 pages
Behavioral Assessment for Work Hardening, by Synthesis, Inc., dated 11/21/03, 4 pages

Pre-Auth request from Airline Chiro and Rehab for 20 sessions, last DOV 12/01/03, no date, 3 pages
Letter from Concentra, for 20 sessions from 12/3/03 - 01/30/04, dated 12/08/03, 1 page
Functional Capacity Evaluation Summary by Jack Barnett, D.C., dated 01/21/04, 21 pages
Report of Medical Evaluation by Jack Barnett, D.C., dated 01/27/04, 5 pages
TWCC Report of Medical Evaluation by Jack Barnett, D.C., dated 02/10/04, 1 page

Summary of Treatment/Case History:
The patient was injured on ___ while employed with . The patient alleged to have climbed on a box, the box slipped and he fell down and injured his left shoulder and elbow.
The patient has undergone chiropractic intervention and chiropractic physical therapy. A radiological report dated 6/17/03 indicated a small fracture over the real neck that is non-displaced. MRI of the left shoulder dated 7/11/03 revealed internal arrangement of the glenohumeral joint demonstrating a grade one slap lesion and cystic abnormality of the humeral insertion inferior glenohumeral ligament, Great II sprain and tendonitis of the supraspinatus tendon, and Type II acromion.

An MRI of the left elbow performed on 7/11/03 revealed a non-displaced radial head fracture of the left elbow and minimal effusion of the elbow joint.

Questions for Review:
1. Are 11 treatment sessions for Manipulations, Therapeutic Procedure, Modalities, E-stim, office visits from 9/17/03 through 10/8/03 medically necessary?

Explanation of Findings:
1. Are 11 treatment sessions for Manipulations, Therapeutic Procedure, Modalities, E-stim, office visits from 9/17/03 through 10/8/03 medically necessary?
The designated doctors report dated 10/10/03 from Aaron Levine, M.D. estimated maximum medical improvement would occur on or about 2/29/04. The MRI's indicated above for the left shoulder and left elbow were both positive.

Decision to Certify:
The daily office notes from 9/17/03 through 10/8/03 did establish medical necessity.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
Milliman and Roberts care guidelines

References Used in Support of Decision:
Guidelines for Chiropractic Quality Assurance and Practice Parameters, (Mercy 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.

MRIoA 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, payer 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 MRIoA 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 MRIoA 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 MRIoA 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 MRIoA 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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