

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-4510.M5**

MDR Tracking Number: M5-05-0551-01

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 10-15-04.

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. One to two office visits a month **were found** to be medically necessary. The mechanical traction, therapeutic exercises, chiropractic manual treatment-spinal, ultrasound, massage therapy, chiropractic manipulation, manual therapy technique, and neurological reeducation **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); in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(6); 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 1-9-04 through 7-30-04 in this dispute.

This Decision and Order is hereby issued this 4th day of February 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision



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NOTICE OF INDEPENDENT REVIEW DECISION

Date: February 2, 2005

To The Attention Of: TWCC
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-16091

RE: Injured Worker:
MDR Tracking #: M5-05-0551-01
IRO Certificate #: 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a chiropractic reviewer (who is board certified in chiropractic) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Correspondence Letter dated 1/24/04 from Suhail Al-Sahli, D.C.
- Subsequent Office Visit Notes dates 12/11/03, 12/30/03, 2/9/04, 4/7/04, 6/2/04
- Prescription from Masroor Ahmed, M.D. dated 9/19/03
- Follow-up Office Visit Notes dates 9/12/03, 10/3/03, 10/17/03, 10/31/03, 11/21/03, 12/19/03, 2/11/04, 3/10/04
- Operative Report dated 10/29/03 from Summit Surgery Center
- MRI of the Cervical and Lumbar Spine dated 7/19/03 from Mana MRI
- Nerve Conduction Study dated 1/20/04 from Sunil Vachhani, D.C.

Submitted by Respondent:

- Medical Dispute Resolution Request/Response
- Table of disputed Services dates 11/17/03-8/14/04
- Explanation of Benefits dates 11/17/03-8/12/04 from Zurich Insurance Group
- Review of Medical Records dated 6/25/04 from Michael Booth, D.C.
- Explanation of Benefits dates 10/20/03-11/7/03
- Follow-up Office Visit Notes from Masroor Ahmed, M.D. dates 11/21/03, 12/19/03, 3/10/04
- Nerve Conduction Study dated 1/20/04 from Sunil Vachhani, D.C.
- Peer Review Addendum dated 11/7/03 from Russell Phillips, D.O.
- Peer Review dated 10/28/03 from Kevin Tomsic, D.C.
- Designated Doctor Examination dated 10/22/03 from Alozo Mcleod, D.O.
- Peer Review dated 6/30/03 from Kevin Tomsic, D.C.

Clinical History

I have had the opportunity to review the medical records in the above-mentioned case for the purpose of an Independent Review. Mr. ___ is a 32-year-old male who was involved in a motor vehicle accident while at work for ___ on ___ injuring his neck and low back. The claimant has been treated by multiple providers including chiropractic treatment, which has included passive physiotherapy modalities and therapeutic exercises from Suhail Al-Sahli, D.C. The claimant had an MRI of the cervical spine and lumbar spine on 7/19/03 from Mana MRI. The cervical spine MRI revealed mild straightening of the cervical spine, minimal to moderate narrowing of the C5-C6 disc and a 3-4 mm focal disc herniation to the right of midline at C5/C6 with the cord abutted and effaced along the adjacent anterior 15% of its margin. The neural foramina are normal. The MRI of the lumbar spine revealed T11-L1 disc shows a 1-2 mm posterior bulge with 5-10% effacement of the thecal sac, L1-L2 there is a 1-2 mm posterior bulge with effacement of the thecal sac of 5-10%, L2-L3 disc bulge of 1-2 mm with effacement of the thecal sac of 10%, L3-L4 there s 1-2 mm posterior bulge with thecal sac effacement of 10%, L4-L5 there is a 2 mm symmetrical posterior bulge with thecal sac effacement of 10% with moderate encroachment inferiorly but no evidence of entrapment, and a 3 mm bulge in the mid-line at L5-S1 abutting the thecal sac but not effaced. The claimant was referred for pain management with Masroor Ahmed, M.D. who performed right cervical branch radio-frequency lesioning at multiple levels on 10/29/03. Based on the provided records the claimant responded well to the treatment. The claimant was determined at maximum medical improvement by designated doctor Alozo Mcleod, D.O on 10/22/03 with 0% whole person impairment.

Requested Service(s)

Mechanical traction (97012), therapeutic exercises (97110), chiropractic manual treatment-spinal (98940), ultrasound (97035), office visit (99212/99213), massage therapy (97124), chiropractic manipulation (98941), manual therapy technique (97140), and neurological re-education (97112) for dates of service 11/17/03 - 8/12/04.

Decision

I agree with the insurance carrier and find that mechanical traction (97012), therapeutic exercises (97110), chiropractic manual treatment-spinal (98940), ultrasound (97035), massage therapy (97124), chiropractic manipulation (98941), manual therapy technique (97140), and neurological re-education (97112) are not reasonable and necessary after 6/13/03 or 6-8 weeks post injury and further treatment beyond this time frame could be consider excessive.

I disagree with the insurance carrier and find that office visits (99212/99213) is reasonable and necessary 1-2 visits monthly until maximum medical improvement is attained.

Rationale/Basis for Decision

I find that mechanical traction (97012), therapeutic exercises (97110), chiropractic manual treatment-spinal (98940), ultrasound (97035), massage therapy (97124), chiropractic manipulation (98941), manual therapy technique (97140), and neurological re-education (97112) are not reasonable and necessary after 6/13/03 or 6-8 weeks post injury and further treatment beyond this time frame could be consider excessive. I form this decision using the Official Disability Guidelines 8th Edition which allows up to 18 chiropractic treatment over 6-8 weeks for a cervical and lumbar intervertebral disc without myelopathy. It would have seemed reasonable for the claimant to be referred for co-management with medications to help speed recovery after two weeks of trial care. The Official Disability Guideline 8th Edition is a guideline of specific conditions which uses a major source being the "Mercy Guidelines", the consensus document created by the American Chiropractic Association in conjunction with the Congress of State Chiropractic Associations, entitled Guidelines for Chiropractic Quality Assurance and Practice Parameters, Proceedings of the Mercy Center Consensus Conference. It from these Guidelines I form my decision for the above reference claimant.

It would seem reasonable for the claimant to follow-up with his treating physician 1-2 times monthly to monitor the claimant's progress with home treatments and make the appropriate referrals as necessary. Therefore, office visit (99212/99213) is reasonable and necessary until the claimant attains maximum medical improvement.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 2nd day of February 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder