

MDR Tracking #: M5-04-0849-01

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 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 11-12-04.

**I. DISPUTE**

Whether there should be reimbursement for dates of service 6-11-04 through 8-6-04.

**II. FINDINGS**

The Medical Review Division dismissed the medical necessity request (dates of service 8-2-04 through 8-5-04) due to nonpayment of the IRO fee by the health care provider per rule 133.308(r)(1)(B). This violation will be referred to Compliance and Practices. Therefore, the file contains unresolved medical fee issues only. The Division shall proceed to resolve the medical fee dispute in accordance with Rule 133.307.

On 12-23-03 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. These medical fees are discussed in Section III.

**III. RATIONALE**

No original EOB's with denial codes were submitted by the requestor or the respondent for dates of service 6-11-04 through 7-29-04. Both requestor (Tony Gavlan) and respondent (Ron Nesbitt) were contacted numerous times and asked to provide original EOB's per Rule 133.308(f)(1). Without original EOB's it is impossible to determine the reason these services were denied. Both parties will be referred to Compliance and Practices for this rule violation. **Recommend no reimbursement.**

Neither the carrier nor the requestor provided EOB's for date of service 8-6-04. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). **Recommend no reimbursement.**

**IV. DECISION**

This Finding and Decision is hereby issued this 9<sup>th</sup> day of February, 2005.

Medical Dispute Resolution Officer  
Medical Review Division

MCMC

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

Date: 2/28/05  
Injured Employee:  
MDR : M5-05-0849-01  
TWCC #:  
MCMC Certification #: 5294

**DETERMINATION: Denied**

**Requested Services:**

Please review the item in dispute regarding massage therapy-97124, aquatic therapy-97114-22/97114, electrical stimulation-97032/97032-22, therapeutic exercises-97110/97110-22. Denied with denial code U for medical necessity without peer review.

Disputed dates of service: 08/02/2004, 08/04/2004, 08/05/2004

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 **12/22/2004**, concerning the medical necessity of the above referenced requested service, hereby finds the following:

**The medical necessity of the above captioned services on 08/02/2004, 08/04/2004 and 08/05/2004 is not established**

This decision is based on:

- TWCC Notification of IRO Assignment dated 12/22/04
- TWCC MR-117 dated 12/22/04
- TWCC-60 stamped received 12/12/04
- Texas Mutual: Explanation of Benefits for DOS 8/2/04 through 8/5/04
- Isomed Rehabilitation Center: Progress Notes for DOS 8/2/04 to 8/6/04

Records indicate that the above-captioned individual, a 43-year old male, was injured during the course of his employment. The scant submitted documentation indicates that this injured individual has undergone chiropractic care, physical therapy, and epidural steroid injections. The documentation further indicates that the treatment has been for the presentation of low back pain with left leg pain. The diagnosis is listed as acute lumbar strain, disc protrusion at L5/S1 and lumbar radiculopathy.

The documentation fails to establish the medical necessity of the litany of services listed above on the above-captioned dates of service. Specifically, no initial exam was submitted for review. An initial exam develops a baseline of objective data from which to later ascertain if objective progress is being obtained. Similarly, there are no subsequent re-examination reports submitted for review with associated comparative data to establish that objective progress and therapeutic gain are being achieved. Only two pages of clinical notations were submitted for review including dates of service 08/02/2004 through 08/06/2004. There are no other dates of service submitted for review. As such, the medical necessity of care from 08/02/2004, 08/04/2004, and 08/05/2004 in regards to the array of services listed above is not established given the lack of supporting documentation and lack of evidence of objective gain. While the documentation does indicate that this injured individual has a possible complicating factor of a lumbar disc protrusion, the documentation does not clearly establish that objective progress was clearly being achieved through the course of care provided to this injured individual from the attending provider.

Therefore the medical necessity of the treatment performed on the dates of service listed above is not established.

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 TWCC on this**

**9<sup>th</sup> day of February 2005.**

**Signature of IRO Employee:** \_\_\_\_\_

**Printed Name of IRO Employee:** \_\_\_\_\_

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