

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 11/18/04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the issues of medical necessity. The IRO determined the office visits (99213 and 99214) for dates of service 12/23/04, 1/14/04 and 2/03/04 were medically necessary. The IRO agrees with the previous determination that the massage (99124), aquatic therapy (97113), supplies and materials (99070) and office visits (99213) on 1/12/04 and 1/15/04 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12/13/04, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

No EOB: Neither party in the dispute submitted EOBs for the disputed services identified below. The Requestor submitted documentation from FED-EX that supports bills were received by the Carrier in accordance with Rule 133.308(f)(3). Since the Carrier did not raise the issue that they had not had the opportunity to audit these bills and did not submit copies of EOBs the Medical Review Division will review these services per the Medical Fee Guideline.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
1/08/04	97124 2 units	\$51.40	\$-0-	No EOB	\$25.70	Rule 134.202(c)(1)	Reimbursement in the amount of \$51.40 is recommended (\$25.70 x 2).
1/08/04	97113 6 units	\$207.78	\$-0-	No EOB	\$34.63	Same as above	Reimbursement in the amount of \$207.78 is recommended (\$34.63 x 6).
1/08/04	99213	\$59.00	\$-0-	No EOB	\$59.00	Same as above	Reimbursement in the amount of \$59.00 is recommended.
2/03/04	99070	\$24.00	\$-0-	No EOB	No MAR or RVU	Rule 134.202(c)(6)	The Carrier has not assigned relative value. Reimbursement in the amount of \$24.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of \$342.18 .

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 fair and reasonable rate as set forth in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b); 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 for dates of service 12/23/03 through 2/03/04 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 19th day of January 2005.

Pat DeVries
Medical Dispute Resolution Officer
Medical Review Division

PD/pd

Enclosure: IRO Decision



7600 Chevy Chase, Suite 400
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NOTICE OF INDEPENDENT REVIEW DECISION

Date: January 13, 2005

To The Attention Of:

TWCC
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-16091

RE: Injured Worker:

MDR Tracking #: M5-05-0925-01

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 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:

- Final Request for Medical Dispute Resolution
- Initial Medical Examination dated 6/3/02 First Rio Valley Medical, P.A.
- Re-Examination dates 11/18/02-12/23/03 from First Rio Valley Medical, P.A.
- Comparative Examination dated 1/14/04 from First Rio Valley Medical, P.A.
- Initial Evaluation dated 6/3/02 from First Valley Medical, P.A., Robert Howell, D.C.
- Interim Assessment Report dated 11/18/02 from Robert Howell, D.C.
- Medical Necessity Letter dated 1/7/04 from Robert Howell, D.C.
- Consultation Note dated 3/4/03
- Interim Report dated 12/23/03 from Robert Howell, D.C.
- Consultation Note dated 2/3/04
- Medical Necessity Letter dated 2/3/04
- MRI Report of the Lumbar Spine dated 3/7/03 from First Rio Valley Medical, P.A.
- Radiographic Biomechanical Report dated 7/16/02 from Progressive Diagnostic Imaging
- Office Visit Notes dates 1/8/04, 1/12/04, 1/14/04, 1/15/04 from Robert Howell, D.C.
- TWWC 73 dated 12/23/03 from Robert Howell, D.C.
- Orthopedic Evaluation dated 4/7/03 from Jorge Tijmes, M.D.
- Evaluation Report dated 5/7/03 from Gilbert Meadows, M.D.
- Evaluation Report dated 5/14/03 from Donald Kramer, M.D.

Submitted by Respondent:

- None Provided

Clinical History

Ms. ___ is a 61 year-old female who injured her neck, mid-back, lower back, bilateral knees and right elbow when approximately 12-cookie sheets fell from a rack towards her causing a jerking movement when she tried to catch the cookie sheets. The claimant sought treatment on 6/3/02 at First Rio Valley Medical, P.A. from Robert Howell, D.C. whose treatment has consisted of chiropractic manipulation with various physiotherapy modalities and active rehabilitation. The claimant had an MRI of the lumbar spine which revealed the L4/L5 intervertebral disc shows desiccation normal stature and central disc protrusion by approximately 5 mm causing ventral narrowing of the thecal sac. There is no effect on the lateral recesses. The L5/S1 intervertebral disc shows desiccation slight loss of stature with central disc protrusion by approximately 4 mm causing ventral narrowing of the epidural fat and contact with no direct contact of the thecal sac. There is no effect of the lateral recesses. The claimant has been referred to multiple providers for orthopedic

evaluation and pain management. The orthopedic evaluation performed by Jorge Tijmes, M.D. on 4/7/03 recommended the claimant is a candidate for lumbar laminectomy. The claimant was also evaluated on 5/7/03 by Gilbert Meadows, M.D. who recommended lumbar epidural steroid injection and if no response from the injections the claimant would be a candidate for lumbar decompression and fusion. Based on the provided documentation the claimant continues to complain of lower back pain and is under the care of Dr. Howell whose treatment consists of aquatic therapy and massage.

Requested Service(s)

Office visits (99213 & 99214), supplies and materials (99070), massage (97124), aquatic therapy (97113) for dates of service 12/23/03 - 2/3/04.

Decision

I agree with the insurance carrier and find that the treatment massage (97124), aquatic therapy (97113), and supplies and materials (99070) are not medically reasonable and necessary for this claimant 19 months post injury. Office visits on 1/12/04 and 1/15/04 are not medically necessary.

I disagree with the insurance carrier and find that the office visits (99213 and 99214) are reasonable and necessary on 12/23/03, 1/14/04 and 2/3/04.

Rationale/Basis for Decision

With respect to the services I do not find medically necessary, I reference The Official Disability Guidelines 8th Edition which uses many resources, one 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 allows treatment of up to 18 chiropractic office visits or 10 physical therapy visits over 6-8 weeks with evidence of functional improvement and a fade of treatment frequency and introduction to a self-directed home therapy program for a lumbar disc injury. It would seem that this claimant's treatment 19 months post injury far exceeds the recommendations specified above and the treatment provided to the claimant does not appear to show evidence of objective function improvement. Therefore, chiropractic treatment, with supervised aquatic therapy and massage for the above specified dates, is not reasonable and necessary. It would seem reasonable since the claimant continues to subjectively complain of symptoms that she be referred for orthopedic evaluation with the possibility of lumbar epidural steroid injections as recommended by Gilbert Meadows, M.D. with surgical intervention to the lumbar spine if the claimant fails to respond to these injections. The provided documentation does not reveal if these injections were performed. Follow-up office visits with treating physician should not exceed 1-2 times monthly to evaluate the claimant's progress with home treatment and make the appropriate referrals. With respect to the DME, it appears, based on the provided medical documentation, that the claimant was prescribed Biofreeze by her treating doctor, Robert Howell, D.C. It would seem that a prescription for a topical analgesic 19 months post injury is not reasonable and necessary and is unlikely to provide permanent benefit for this claimant. It would seem that Biofreeze should be used in the acute phase of treatment for soft tissue injuries and for arthritic condition the use of Biofreeze may provide temporary relief. It does seem that the claimant does have a pre-existing condition of arthritis based on Dr. Howell's 1/8/04 Office Visit Notes.

With respect to the services I find medically necessary, this claimant continues to complain of lower back pain as a result of the compensable event dated 5/30/02. It would seem reasonable for the claimant to be monitored by her treating doctor on progress made with home treatment and referrals. These office visits should not exceed 1-2 office visits monthly as specified above. Office visits in conjunction with each physical therapy session are not reasonable or necessary nor is there a necessity for office visits more frequent than semi-monthly for supervision of a treatment plan.

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 13th day of January 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder