

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-4336.M5**

MDR Tracking Number: M5-05-0975-01

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 11-18-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visit, therapeutic exercises, manual therapy technique and neuromuscular re-education were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service from 11-17-03 to 12-12-03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 21st day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO decision

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IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

January 19, 2005

Re: IRO Case # M5-05-0975 -01

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed in Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting 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 referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed services
2. Explanation of benefits
3. Peer review Dr. O'Kelley 21/2/03
4. IR report Dr. Pilatovsky 1/8/04
5. Reports Dr. Farhat 11/11/04, 11/11/03
6. Electrodiagnostic report 11/7/03

7. MRI of lumbar spine report 6/19/03
8. Comparative muscle/ROM report 11/12/03
9. Treatment notes Dr. Esquibel
10. TWCC 69 reports
11. IR report 5/19/03

History

The patient injured her neck, left shoulder and upper back in ____ when she stepped in a pothole. She initially saw one doctor for treatment and was placed at MMI on 5/19/03. On 9/12/03 the patient changed her treating doctor to Dr. Esquibel for chiropractic care, and she complained of low back pain radiating into her right hip and leg.

Requested Service(s)

Office visit, therapeutic exercises, manual therapy technique, neuromuscular re-education 11/17/03 – 12/12/03

Decision

I agree with the carrier's decision to deny the requested services.

Rationale

The patient initially received treatment for injuries to her neck, shoulder and upper back, and she did not complain of any lower back pain until she saw Dr. Esquibel, about seven months after the injury. An MRI of the lumbar spine revealed multiple levels of degenerative disk disease. An injury to the patient's low back should have resolved within eight to twelve weeks of the injury. The patient had a fair trail of chiropractic care from the D.C. prior to the dates in dispute without documented relief of symptoms or improved function. The records provided for this review fail to show any objective findings that would indicate that treatment was beneficial to the patient. The patient's VAS for pain did not change, and her subjective and objective findings did not improve from any of the D.C.'s treatment. Failed treatment does not establish a medical rationale for continued non-effective treatment.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Daniel Y. Chin, for GP