

MDR Tracking Number: M5-05-1045-01

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 12-03-04.

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 visits, electrical stimulation, manual therapy, therapeutic exercises, DME cervical pillow and hot/cold pack therapy 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 11-18-03 to 04-27-04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 8<sup>th</sup> day of February 2005.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

Enclosure: IRO decision

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

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## NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-05-1045-01
Name of Patient:	
Name of URA/Payer:	West Houston Chiropractic
Name of Provider: (ER, Hospital, or Other Facility)	West Houston Chiropractic
Name of Physician: (Treating or Requesting)	Brian H. Le, DC

February 1, 2005

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating

physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Texas Workers Compensation Commission

#### CLINICAL HISTORY

Available documentation received and included for review consists of records from multiple providers including second opinion / IME reports from Drs Francis (MD) Grant-Jennings (MD), Dholakia (MD), Tomasek (MD) DeFrancisco (MD). Treatment notes included ESI surgical note from Dr. Nguyen as well as an update / re-exam report from Dr. Le (DC). No other office visit or treatment notes from Dr. Le were available. MRI reports: cervical spine 09/03/03.

Mr. \_\_\_\_, a 34 -year-old female, injured her neck on \_\_\_\_ while employed with \_\_\_\_\_ hospital as a medical assistant. While pulling a patient up, she sustained an injury to her upper back and neck, with subsequent pain/parasthesias/weakness into the upper extremities. She was apparently treated with conservative care including physical therapy, chiropractic and given a tens unit. She underwent a course of multiple steroid injections by 08/12/03.

The records reference previous MRIs of the cervical and thoracic spine areas performed in 2002. These revealed minimal anterior spondylitic changes at C5/6, and a normal thoracic spine, however the reports are not available for me to review directly. A report dated 9/3/03 is available and reports a C6/7 posterior central disc protrusion causing minimal spinal stenosis, and a posterior protrusion C5/6 without nerve root impingement.

References are also made to electro-diagnostic studies on 12/12/02 (Mendoza) revealing evidence of bilateral C7 radiculopathy, and on 3/22/03 (Page) revealing right median neuropathy at the wrist with slowing of the motor and sensory distal latencies. The patient was

seen for designated doctor purposes by Dr. Grant-Jennings on three occasions, 12/14/02, 3/22/03 and 8/23/03. On each occasion she did not feel the patient was at MMI, requiring further therapy and epidural steroid injections.

A second orthopedic surgical opinion was sought on 10/30/03 (Francis), who felt to the patient had a right C7 radiculopathy with intractable pain and sensory loss requiring surgical decompression. Another designated doctor opinion (Dholakia) on 1/20/04 felt the patient was not at MMI pending surgery. 2nd surgical opinion (Tomasek) on 2/26/04 agreed with the requirement for surgery. Carrier sponsored IME (DeFrancisco) on 3/24/04 mentions "conservative treatment was helpful sometimes" and agreed with the requirement for surgery.

The only documentation from the treating doctor is a reevaluation report dated 7/30/03 for an exam visit on 06/30/03. This was during the period of time of the patient was undergoing a cervical epidural steroid injections, with a plan to continue with rehabilitation program three times per week for four weeks in conjunction with the injections. The program included various cervical and thoracic exercises, treadmill, bike, numerous weight machines. In conjunction with this electrical muscle stimulation, moist heat and myofascial release is planned. There is a note indicating deferral for surgical options pending outcome to treatment régime. No treatment records are available for the disputed time span.

#### REQUESTED SERVICE(S)

Medical necessity of office visit (99212), electrical stimulation (G0283), manual therapy (97140), therapeutic exercises, (97110), DME cervical pillow (E0943), and hot/cold pack (97010) for dates of service 11/18/03 – 4/27/04.

#### DECISION

Denied.

#### RATIONALE/BASIS FOR DECISION

*The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when*

*needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.*

This patient sustained what is apparently a discogenic injury with radiculopathy/radiculitis. This has been resistant to conservative care measures, including more aggressive pain management interventions in the form of epidural steroid injections. Surgery has been suggested and confirmed by at least three separate orthopedists, as well as by designated doctor.

The dates of service on the review are outside of those normally associated with a treatment régime concurrent with pain management interventions.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.

**References:**

- Hansen DT: Topics in Clinical Chiropractic, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".
- Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;
- Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997; chapter 1, pp. 3-25.
- Liebenson C. Commentary: Rehabilitation and chiropractic practice. JMPT 1996; 19(2):134140