Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 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. This dispute was received on 12/13/04. The Requestor withdrew CPT codes 99212 and 97110 for date of service 12/17/03 and CPT code 97112 for date of service 1/26/04; therefore, these codes will not be reviewed.

The IRO reviewed office visits, therapeutic exercises, manual therapy techniques and neuromuscular re-education for dates of service 12/15/03 through 3/30/04 that were denied based upon "V" and "U".

The IRO determined office visit charges for 99212/99213/99214-levels II, III, and IV office visits for dates of service 12/15/03 through 3/30/04 were medically necessary. Therapeutic exercises for dates of service 12/15/03 through 1/28/04 were also medically necessary. The IRO further determined manual therapy techniques and neuromuscular re-education for dates of service 12/15/03 through 3/30/04 were not medically necessary. Also, therapeutic exercises after 1/28/04 were not medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor $460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

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 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 12/15/03 through 3/30/04 in this dispute.

This Decision and Order is hereby issued this 2nd day of February 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

Medical Review Institute of America, Inc.
America's External Review Network

MRIoA

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January 27, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
POLICY: M5-05-1150-01
CLIENT TRACKING NUMBER: M5-05-1150-01/5278

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIoA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIoA for independent review.

Records Received:
Records from the State:
Notice of IRO assignment, 12/29/04
Notice of receipt of request for Medical Dispute Resolution, 12/29/04
Medical Dispute Resolution Request, 12/13/04
Table of Disputed Services, 5 pages
Explanation of benefits, from 12/15/03 through 3/30/04 - excluding 12/17/03

Records from Provider:
Medical Dispute Resolution Request/Response form
Table of Disputed Services, 5 pages

Daily office notes from 12/15/03 through 12/13/04
Re-examinations for the following dates: 12/29/03, 2/13/04, 3/15/04, and 3/30/04
Request for medical dispute resolution report, 11/1/04
Letter of medical necessity, 1/5/04

Summary of Treatment/Case History:
The patient in this case was injured on 1/__/03 and she sustained injuries to her right ankle and lower back. The patient underwent surgery for a tear of the peroneus brevis muscle on the right ankle on 4/23/03 and she began care with the chiropractor on 9/23/03. Chiropractic treatments were directed at the lumbar spine

and the right ankle and the letter from Dr. Griffith indicated that the patient began post-operative rehabilitation of the right ankle in September of 2003.

The patient underwent an epidural steroid injection on 11/25/03 and she underwent post-injection physical therapy and rehabilitation. The 1/29/04 report from Dr. Martinez indicated the patient had not significantly improved and he suggested a surgical consultation. The patient went to an orthopedic surgeon, Dennis Gutzman MD on 3/23/04 and Dr. Gutzman recommended a laminectomy, bilateral foraminotomies at L4-5 and L5-S1 and fusion at L4-5 and L5-S1 with posterior instrumentation and a bone growth stimulator with harvested graft implanted.

The dates of service in question are as follows:
Dec 03: 15, 17, 19, 22, 23, 29, 31
Jan 04: 5, 9, 23, 26, 28
Feb 04: 2, 9, 11, 13
Mar 04: 15, 30

A review of the progress notes revealed no change in the patient's self-reported pain scores from 12/15/03 through 2/15/04 in spite of the rehabilitation treatments and injections administered.

Questions for Review:

1. Please review the dates of service in dispute, 12/15/03 to 3/30/04, and advise on th medical necessity of: #99212/#99213/#99214-levels II, II, and IV office visits; #97110 - therapeutic exercises, #97112 - neuromuscular reeducation; #97140 - manual therapy technique; denied by carrier for necessity with V codes.

Explanation of Findings:

1. Please review the dates of service in dispute, 12/15/03 to 3/30/04, and advise on th medical necessity of: #99212/#99213/#99214-levels II, II, and IV office visits; #97110 - therapeutic exercises, #97112 - neuromuscular reeducation; #97140 - manual therapy technique; denied by carrier for necessity with V codes.

The office visit charges for #99212/#99213/#99214-levels II, II, and IV office visits from 12/15/03 to 3/30/04 were medically necessary for the purposes of evaluating the patient and directing her care.

Therapeutic exercises (#97110) were medically necessary from 12/15/03 to 1/28/04. Therapeutic exercises after 1/28/04 were not medically necessary, as the medical records reviewed indicated the patient failed to respond to care and continuation of care was inappropriate. The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001;81:1641-1674).

Haldeman et al indicate that it is beneficial to proceed to the rehabilitation phase of care as rapidly as possible to minimize dependence on passive forms of treatment/care and reaching the rehabilitation phase as rapidly as possible and minimizing dependence on passive treatment usually leads to the optimum result (Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993)

The use of neuromuscular reeducation (#97112) from 12/15/03 to 3/30/04 was not medically necessary. Neuromuscular reeducation is commonly utilized for post-stroke rehabilitation and is not commonly utilized for the management of conditions similar to the patient's. The CPT Code Book defines neuromuscular reeducation as: "neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and proprioception". The progress notes for the patient's office visits do not provide medical necessity for the use of this procedure at each office visit, as no evidence of a neurological deficit leading to a breakdown in the neural link between the locomotor cortex of the brain and the musculoskeletal system was identified in the records as affecting the patient.

The use of manual therapy techniques (#97140) from 12/15/03 to 3/30/04 was not medically necessary. The patient had been under treatment since September 2003 with the chiropractor and the continuation of passive therapy treatments over two months after the initiation of treatment was not medically necessary.

The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (eg, thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001;81:1641-1674).

Chiropractic literature indicates that little is to be gained from prolonged courses of chiropractic care if there has not been adequate response in the first month of care. Bronfort (Bronfort, G., "Chiropractic treatment of low back pain: A prospective survey", JMPT, 9:99-113, 1986) found that there was little improvement occurring in patients who responded poorly to the first month of care.

Conclusion/Partial Decision to Certify:
The office visit charges for 99212/99213/99214-levels II, II, and IV office visits from 12/15/03 to 3/30/04 were medically necessary for the purposes of evaluating the patient and directing her care.

Therapeutic exercises were medically necessary from 12/15/03 to 1/28/04.

The use of manual therapy techniques from 12/15/03 to 3/30/04 was not medically necessary.

Therapeutic exercises after 1/28/04 were not medically necessary

The use of neuromuscular reeducation from 12/15/03 to 3/30/04 was not medically necessary.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993

References Used in Support of Decision:
Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001;81:1641-1674

Bronfort, G., "Chiropractic treatment of low back pain: A prospective survey", JMPT, 9:99-113, 1986

This review was provided by a Doctor of Chiropractic who is also a member of the American Chiropractic Academy of Neurology. This reviewer also holds a certification in Acupuncture. This reviewer has fulfilled both academic and clinical appointments and currently serves as an assistant professor at a state college, is in private practice and is a director of chiropractic services. This reviewer has previously served as a director, dean, instructor, assistant professor, and teaching assistant at a state college and was responsible for course studies consisting of pediatric and geriatric diagnosis, palpation, adjusting, physical therapy, case management, and chiropractic principles. This reviewer is responsible for multiple postgraduate seminars on various topics relating to chiropractics and has authored numerous publications. This reviewer has participated in numerous related professional activities including work groups, committees, consulting, national healthcare advisory committees, seminars, National Chiropractic Coalition, media appearances, and industrial consulting. This reviewer has been in practice since 1986.

MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

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standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIoA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIoA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIoA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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