

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 12-27-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of 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** 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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The group therapeutic procedures (CPT code 97150) and therapeutic exercises (CPT code 97110) **were found** to be medically necessary. The manual therapy technique (CPT code 97140) **was not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 4th day of February 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees from 8-6-04 through 9-3-04 as outlined above in this dispute:

- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c) and 134.202(c)(6);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.
-

This Order is hereby issued this 4th day of February 2005.

Margaret Ojeda, Supervisor
Medical Dispute Resolution
Medical Review Division

MO/da

Enclosure: IRO decision



7600 Chevy Chase, Suite 400
Austin, Texas 78752
Phone: (512) 371-8100
Fax: (800) 580-3123

NOTICE OF INDEPENDENT REVIEW DECISION

Date: February 2, 2005

To The Attention Of:

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

RE: Injured Worker:

MDR Tracking #: M5-05-1244-01

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:

- Initial report from Dr. Garza, D.C., treating chiropractor, dated 5/28/04
- Multiple follow ups and re-evaluations from Dr. Garza dated 6/21/04, 8/16/04, 9/15/04, and 9/20/04. The 9/20/04 follow up was mainly a referral letter for a neurological and electrodiagnostic work up
- Several evaluations from Dr. Lall, M.D., pain management specialist, dated 6/11/04, 7/2/04, 7/30/04, 8/27/04, 9/17/04, 10/8/04, 10/29/04, 11/05/04 and 11/19/04
- Multiple daily chiropractic rehabilitation notations for the disputed dates of service which ran from 8/6/04 through 9/3/04

- Range of motion and strength evaluation reports and summaries of 8/26/04 and 6/17/04
- RME report from Dr. Ratliff, M.D., orthopedist, dated 9/30/04
- MRI report dated 7/24/04
- X-ray report dated 7/24/04
- Electrodiagnostic and neurological evaluation from Dr. Lovitt, M.D. dated 10/11/04

Submitted by Respondent:

- None

Clinical History

According to the documentation submitted for review, the claimant fell backwards off a ladder when she misstepped. She reportedly landed on her low back and buttocks region when the injury occurred on _____. She took a few days off in hopes that the pain would get better and she even took some vacation time; however, the pain did not subside and she consulted with Dr. Garza, D.C. on 5/28/04. She underwent chiropractic passive and active therapy, and she did see Dr. Lall, M.D. for second opinion and epidural steroid injections. She underwent approximately 3 epidural steroid injections and these occurred on 8/18/04, 9/23/04 and 10/21/04. The claimant also underwent an MRI evaluation which reportedly showed a left sided herniation at the L4/5 level and a centralized herniation at the L5/S1 level. There were multiple degenerative changes from about L3 through S1 involving the facet joints and discs. It should be noted that Dr. Ratliff reviewed the MRI films and felt that these were mostly degenerative bulges in the low back and he did not seem to share the opinion of the medical radiologist who read the MRI films. Dr. Ratliff did feel that the frequency and type of treatment rendered through his report of 9/30/04 was appropriate. The claimant did appear to improve based on my review of the range of motion and strength evaluations over time. Her pain levels went from near a 10/10 pain level down to a 1-2/10 pain level. It appears that she did return to full time light duty work in early November 2004. The claimant was noted to be fairly obese and weighed anywhere from 185-200 pounds depending on which report was reviewed. She is only 5'3" tall. The claimant did demonstrate left lower extremity symptoms that were consistent with the MRI findings. It was felt by the neurologist, Dr. Lovitt, that she may have had some left sided sacroiliac joint involvement.

Requested Service(s)

97140 - manual therapy, 97150 group therapeutic procedures, 97110 - therapeutic exercises for dates of services 8/6/04 to 9/3/04. According to the billing, the carrier was billed for 6 units of therapeutic exercises, 2 units of group therapeutic procedures and 1-2 units of manual therapy which appeared to consist of myofascial release.

Decision

I agree with the carrier and find that the myofascial release, which I believe was coded 97140, was not medically necessary during the disputed dates of service. I disagree with the carrier and find that the remaining procedures billed at the 97150 and 97110 level were appropriate.

Rationale/Basis for Decision

The disputed dates of service fall well after 8 weeks post injury and, therefore, myofascial release would not be indicated. It was evident that the claimant was beginning to improve and the myofascial release procedure would not be considered appropriate at that particular stage of the injury. There were also no myofascial findings according to the documentation submitted for review. I looked for myofascitis; however, I could find none in the documentation. Most of the disputed dates of service fall after the first epidural steroid injection. It would be considered appropriate and reasonable and customary in the medical literature and overall treatment guidelines for a post epidural steroid injection physical therapy program to be warranted. The first epidural steroid injection occurred on 8/18/04, therefore, the services after this date would generally be considered appropriate through 2 weeks post injection. I also noticed that the claimant demonstrated a slow steady improvement and was eventually returned to work. Even though she demonstrated a normal electrodiagnostic work up, she did demonstrate in my opinion some evidence of left sided radicular symptoms during clinical evaluation which correlated quite well with the MRI findings. In addition, Dr. Ratliff found that the treatment had been appropriate and he examined the claimant on 9/30/04 well after the disputed dates of service. The claimant was also noted to be obese and had fairly extensive degenerative changes which, in my opinion, were aggravated by the injury of 5/19/04. Again, to summarize, the 97150 procedure and the 97110 procedure would be considered medically necessary in this particular instance; however, the billing for 97140 would not be considered appropriate due to lack of documentation and the fact that this is a passive modality and the name of the game at that point of the disputed dates of service would have been a more functional and active restoration of the claimant's condition.

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 2nd day of February 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder