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 disputed dates of service 1-7-04 through 1-13-04 are untimely and ineligible for review per TWCC Rule 133.308 (e)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. This dispute was received on 1-14-05.

The IRO reviewed chiropractic manipulations, electrical stimulation, therapeutic exercises, neuromuscular re-education, manual therapy, analysis of stored data, office visits, range of motion testing, muscle strength testing, conductive paste/gel, and gait training.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 2-15-05, 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.

Code 97032 for dates of service 3-1-04, 4-28-04, 7-2-04 and 7-7-04 had no EOB submitted by either party. Per Rule 133.308(f)(3), the requestor did not submit convincing evidence of carrier receipt of request for reconsideration. Per Rule 133.308(g)(3), the carrier did not submit the missing EOBs as required. Upon further review, it was noted that there was no bill submitted for this service on these dates. Therefore, no review and no reimbursement recommended.

Code 97116 for date of service 6-11-04 had no EOB submitted by either party. Per Rule 133.308(f)(3), the requestor did not submit convincing evidence of carrier receipt of request for reconsideration. Per Rule 133.308(g)(3), the carrier did not submit the missing EOBs as required. Upon further review, it was noted that there was no bill submitted for this service on this date. Therefore, no review and no reimbursement recommended.

Codes 97140-59, 97032, 97110, and 97112 had no EOB submitted. Per Rule 133.308(f)(3), the requestor did not submit convincing evidence of carrier receipt of request for reconsideration. Per Rule 133.308(g)(3), the carrier did not submit the missing EOBs as required. Therefore, no review and no reimbursement recommended.

The above Findings and Decision is hereby issued this 11th day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

Original review date: March 11, 2005
Amended review date: March 15, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M5-05-1451-01
CLIENT TRACKING NUMBER: M5-05-1451-01 5278

AMENDED REVIEW

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 TWCC:
- Notification of IRO Assignment, dated 2/15/05 – 50 pages

Records from William Langeland, DC:
- Diagnostic, dated 10/10/03 – 1 page
- MRI of the Lumbar Spine, dated 7/30/02 – 1 page
- Physical Therapy Order Form, dated 5/13/03 – 1 page
- Patient Request for Records, dated 5/14/03 – 1 page
- New Patient Consent to the Use and Disclosure of Health Information for Treatment, Payment, or Healthcare Operations, dated 5/14/03 – 1 page
- ICD9-Component Diagnosis Chart, dated 5/14/03 – 1 page
- Power of Attorney to Endorse Checks, dated 5/14/03 – 1 page
- Acknowledgement of Receipt of Notice of Privacy Practices, dated 5/14/03 – 1 page
- Comparative Muscle/ROM report, dated 6/19/03 – 5 pages
- Exam by Dr. Rafiq Ali, DC, dated 6/22/03 – 3 pages
- Physical Therapy Order Form, dated 8/7/03 – 1 page
- Operative report by Vidyadhar S. Hede, MD, dated 7/10/03 – 1 page

- Operative report by Dr. Hede, dated 8/19/03 – 2 pages
- Pain Management Consult by Dr. Hede, dated 6/9/03 – 2 pages
- Office visit by Dr. Hede, dated 7/23/03, 9/8/03 – 5 pages
- Fax coversheet to Carl Van Dyke from ___/Allstate Chiropractic Center, undated – 1 page
- Letter To Whom It May Concern from Dr. Langeland, dated 9/30/03 – 1 page
- Initial Patient Consult by K. Bobby Pervez, MD, dated 10/10/03 – 2 pages
- Functional Capacity Evaluation report, dated 11/3/03 – 16 pages
- Office visit by Dr. Pervez, dated 11/14/03, 12/12/03, 2/13/04, 3/12/04, 4/9/04, 8/6/04, 9/3/04, 1/7/05 – 8 pages
- Peer review by Kevin R. White, DC, dated 12/18/03 – 3 pages
- Patient Information Form, undated – 6 pages
- Comparative Muscle Finding/ROM report, dated 5/5/04 – 5 pages
- Letter to Dr. Langeland from Jeffrey D. Reuben, MD, PhD, dated 2/1/04 – 2 pages
- Comparative Muscle Finding/ROM report, dated 2/18/04 – 5 pages
- Comparative Muscle Finding/ROM report, dated 3/11/04 – 5 pages
- Electrophysiological eval by Robert Lowry, MD, dated 2/26/04 – 1 page
- Comparative Muscle Finding/ROM report, dated 7/26/04 – 5 pages
- Functional Capacity Evaluation report, dated 9/2/04 – 16 pages
- Letter to Dr. Pervez from Shirley Rios/Advanced Pain Management, dated 10/4/04 – 1 page
- Comparative Muscle Finding/ROM report, dated 11/22/04 – 6 pages
- Letter to Gallagher Bassett from Dr. Langeland, dated 12/3/04 – 1 page
- Fax coversheet to Joanita from Zea Dortmundt/Gallagher Bassett Services, Inc, dated 12/3/04 – 1 page
- Office records, multiple dates – 11 pages
- Daily Patient Records, multiple dates – 67 pages
- Progress Note, dated 9/23/03 – 1 page
- Daily Soap Notes, multiple dates – 248 pages
- Safety Tips for Daily Living, dated 12/10/03 – 1 page
- Hip Exam, dated 1/23/04 – 1 page
- Progressive Exercise Notes, multiple dates – 5 pages
- Chronic Pain Management Daily Patient Status, multiple dates – 30 pages

Summary of Treatment/Case History:

The patient is a 58-year-old male who, on ___, was working on the flow line and was loading a drill bit into the pressure tester. In the process of attempting to position it properly, he felt an immediate sharp pain in his left lower back and left lower extremity. He was treated with medication, physical therapy and home exercises for the next several months and on 5/14/1997, he was reportedly 80% improved. On 6/13/1997, an impairment rating was performed and ___ was awarded a 7% whole-person impairment. The records do not reflect that any chiropractic care had been performed during that time frame.

The records then pick up in July of 2002 with a lumbar MRI and eventually with chiropractic treatment beginning in May of 2003. Nerve blocks and ESIs were performed in 2003, followed by over seventeen months of repetitive chiropractic treatments. The patient then participated in a Chronic Pain Management Program from November 2004 through January 2005.

Questions for Review:

1. Were the chiropractic manipulative therapies, spinal 1-2 areas (#98940), chiropractic manipulative therapies, spinal 3-4 areas (#98941), electrical stimulation, attended (#97032), therapeutic exercises (#97110), neuromuscular reeducation (#97112), manual therapy techniques (#97140), analysis of data (#99090), office visits, level II (#99212), office visits, level IV (#99214), range of motion testing (#95851), muscle strength testing (#95831), conduct past/gel dispensed (#A4558), and gait training (#97116) from dates of service 1/14/2004 through 7/19/2004 medically necessary to treat this patient's injury?

Explanation of Findings:

1. Were the chiropractic manipulative therapies, spinal 1-2 areas (#98940), chiropractic manipulative therapies, spinal 3-4 areas (#98941), electrical stimulation, attended (#97032), therapeutic exercises (#97110), neuromuscular reeducation (#97112), manual therapy techniques (#97140), analysis of data (#99090), office visits, level II (#99212), office visits, level IV (#99214), range of motion testing (#95851), muscle strength testing (#95831), conduct past/gel dispensed (#A4558), and gait training (#97116) from dates of service 1/14/2004 through 7/19/2004 medically necessary to treat this patient's injury?

No. Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) As time progresses, there should be an increase in the active regimen of care, a decrease in the passive regimen of care and a decline in the frequency of care. (B) Home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency. (C) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (D) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment.

In this case, however, the plethora of records submitted for review reveal that – even in the face of little or no response to care – treatment continued month after month, without significant alteration. In fact, review of the daily notes and examinations reveal that not only did the patient fail to improve with care, but he actually worsened in some respects. Specifically, the daily records demonstrate that the recorded pain index (from 0 – 10, where "0" represents no pain and "10" represents the worst pain imaginable) on 05/16/2003 was a "7," and on 10/27/2004, it was an "8." Furthermore, range of motion testing revealed that during the 11/03/2003 functional capacity evaluation, the patient's lumbar flexion, extension, left lateral flexion and right lateral flexion were recorded at 51, 9, 16 and 14, respectively, but on 07/26/2004 – immediately following the 7 months of treatment in dispute – the patient was recorded at 35, 11, 14 and 19, respectively, demonstrating only a minimal improvement in lumbar extension, with only a slight improvement in right lateral flexion while both flexion and left lateral flexion worsened. (In addition, the patient was still not working during this time.) On these bases, the care at a minimum failed to meet the statutory requirements (1) since the patient did not obtain relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to, or retain, employment.

Moreover, The *Guidelines for Chiropractic Quality Assurance and Practice Parameters* (2) Chapter 8 under "Failure to Meet Treatment/Care Objectives" states, "After a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual procedures may no longer be appropriate and alternative care should be considered." And, the ACOEM Guidelines (3) state that if manipulation does not bring improvement in three to four weeks, it should be stopped and the patient reevaluated. According to the medical records submitted, the patient had been receiving the same type of care for many months before the services in dispute were initiated. Therefore, there was no basis to continue with a therapy protocol that was not providing benefit.

Conclusion/Decision to Not Certify:
All services in question are not medically necessary to treat this patient's injury.

References Used in Support of Decision:

1. Texas Labor Code 408.021
2. Haldeman, S; Chapman-Smith, D; Petersen, D Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen Publishers, Inc.
3. ACOEM Occupational Medicine Practice Guidelines: Evaluation and Management of Common Health Problems and Functional Recovery in Workers, 2nd Edition, p. 299.

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

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.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIoA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the 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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