

MDR Tracking #M5-05-1821-01

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 (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 2-28-05.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date(s) of service are not timely and are not eligible for this review: 2-27-04.

The requestor withdrew dates of service 3-26-04, 6-14-04 and 7-30-04. These services will not be a part of this review.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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

The IRO reviewed chiropractic manipulative therapy-spinal treatments, therapeutic exercises, massage therapy, mechanical traction, office visits, and therapeutic exercises-group for 3-1-04 through 7-12-04.

The chiropractic manipulative therapy-spinal treatments **were found** to be medically necessary. The therapeutic exercises, massage therapy, mechanical traction, office visits, and therapeutic exercises-group **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services. The amount due the requestor for the medical necessity issues is \$197.04.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees totaling \$197.04 from 3-1-04 through 7-12-04 outlined above as follows:

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

This Decision and Order is hereby issued this 9th day of June, 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive Austin, Texas 78738
Phone: 512-402-1400 FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-05-1821-01
Name of Patient: _____	
Name of URA/Payer:	Suhail Al-Sahli, DC
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician:	Suhail Al-Sahli, DC
(Treating or Requesting)	

June 6, 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

Items Reviewed:

1. Notification of IRO Assignment, Table of Disputed Services, Carrier EOBs
2. Lumbar spine MRI and plain film reports, one dated 4/24/02 and the other on 4/1/03
3. Treating doctor "Daily Notes Reports," 9/19/03 through 7/30/04, and exercise logs, multiple dates
4. EMG/NCV report, dated 4/30/02
5. Peer review, dated 9/9/02
6. Report of medical evaluation and TWCC-69 report, dated 3/13/04
7. Previous IRO decision regarding the disputed work hardening program, dated 10/29/04
8. Operative report (SI and facet injection), dated 1/6/04
9. Initial evaluation by the treating doctor, dated 2/27/04
10. Individual psychotherapy notes, multiple dates
11. Follow-up treating doctors notes/narratives, dated 4/21/04
12. Designated doctor examination and report, dated 5/6/04
13. Functional capacity evaluations and functional abilities evaluation, dated 5/5/03, 4/26/04, 6/30/04 and 7/13/04
14. Peer review, dated 5/18/04

15. Work hardening notes and work hardening weekly team conference notes, multiple dates
16. Pain management medical doctor notes, dated 8/1/03, 12/19/03, 1/2/04, 2/18/04, 3/17/04, 4/16/04, 5/14/04, 5/28/04, 6/11/04 and 7/30/04
17. Statement of position and medical necessity of the treatments rendered, dated 5/25/05
18. Statement of carrier's position, undated

Patient is a 61-year-old male truck driver for a steel yard when, on ____, he was rear-ended by another 18-wheeler. The patient was seen initially by a medical doctor, who prescribed medications as well as physical therapy, but the patient soon changed treating doctors to a doctor of chiropractic who performed chiropractic manipulations, and more active and passive physical therapy. An MRI on 4/24/02 revealed a herniated disc at L5-S1 with severe spinal and foraminal stenosis bilaterally. Conservative care continued but the patient's response was less than desirable, so the patient underwent a trial of epidural steroid injections beginning on 7/25/02. Even this more aggressive intervention failed, and the patient eventually underwent spinal surgery on 8/13/03 that included multilevel decompression, foraminotomy and laminectomy, followed by post-operative physical therapy and rehabilitation. Then, on 1/6/04, the patient underwent facet and SI joint injections, psychotherapy in March 2004, and then a work hardening program from April through June 2004.

REQUESTED SERVICE(S)

Chiropractic manipulative therapy, spinal 1-2 areas (98940), therapeutic exercises (97110), massage therapy (97124), mechanical traction (97012), established patient office visits, levels II & III (99212 & 99213), and therapeutic exercises, group (97150) for dates of service 3/1/04 through 7/12/04.

DECISION

The chiropractic manipulative therapies, spinal 1-2 regions (98940) are approved.

All remaining services and procedures are denied.

RATIONALE/BASIS FOR DECISION

The medical records submitted in this case adequately documented that a compensable injury to this patient's lower

back occurred that eventually required spinal surgery. The documentation also revealed that despite the surgery, the patient continued to be symptomatic, even to the point of requiring facet and SI joint injections 5 months post-operatively. Therefore, the medical necessity of follow-up spinal manipulative treatments was adequately supported as necessary.

However, in terms of the therapeutic exercises (97110), the provider failed to establish why continued supervised exercises were still required to be performed one-on-one by 3/1/04, particularly when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."¹ And after over two years of monitored instruction, the claimant should have certainly been able to safely perform the necessary exercises by that time without supervision one-on-one, or even in a group setting (97150), particularly absent any documentation stating otherwise. In addition, any gains obtained during this time period would have likely been achieved through performance of a home program anyway.

Insofar as the established patient office visits, level II (99212) were concerned, nothing in either the diagnosis or the daily records in this case supported the necessity of performing this level of Evaluation and Management (E/M) service on a routine basis, and certainly not in the middle of an already-defined treatment plan. In addition, according to CPT ², the chiropractic manipulative therapy (98940) services already supported on those same dates of service bore inherent in them a certain level of E/M service. Therefore, it would be unnecessary as duplicative to perform these services again.

And finally, in regard to the mechanical traction (97012) service, nothing whatsoever in any of the "daily notes reports" for this patient discussed this service. Therefore, since its medical necessity was not clearly defined in the documentation, it was unsupported.

¹ Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. *Spine*. 2003 Feb 1;28(3):209-18.

² *CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised*. (American Medical Association, Chicago, IL 1999),