

MDR Tracking Number: M5-05-1849-01

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 3-3-05.

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, significantly, separately E/M performed by the same physician on the same date of service, manual therapy, distinct procedural service, group therapeutic procedures, therapeutic exercises, and special reports from 7-22-04 through 8-19-04 were not medically necessary.

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 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Finding and Decision is hereby issued this day of 3rd day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

April 25, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-05-1849-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme
General Counsel

GP:thh

REVIEWER'S REPORT
M5-05-1849-01

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

Correspondence

Office notes 03/04/04 – 02/08/05

Physical therapy notes 07/20/04 – 08/19/04

Radiology reports 02/18/04 – 04/21/04

Information provided by Respondent:

Correspondence

Designated doctor reviews

Information provided by Pain Management Specialist:

Office notes 03/05/04 – 08/27/04

Information provided by Orthopedic Surgeon:

Office note 05/05/04

Clinical History:

This male patient underwent physical medicine treatments, epidural steroidal injections and diagnostic imaging after sustaining injury in an on-the-job motor vehicle accident on ____.

Disputed Services:

Office/outpatient visits-est., significantly, separately E/M performed by the same physician on the same date of service, manual therapy, distinct procedural service, group therapeutic procedures, therapeutic exercises and special reports during the period of 07/22/04 thru 08/19/04.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the treatment, therapy, reports and services in dispute as stated above were not medically necessary in this case.

Rationale:

Physical medicine is an accepted part of a rehabilitation program following 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) Home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency. (B) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (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.

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. In this case, there is no documentation of objective or functional improvement in this patient's condition and no evidence of a change of treatment plan to justify additional treatment in the absence of positive response to prior treatment.

The *Guidelines for Chiropractic Quality Assurance and Practice Parameters*¹ 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,

¹ Haldeman, S; Chapman-Smith, D; Petersen, D *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen Publishers, Inc.

manual procedures may no longer be appropriate and alternative care should be considered.” In this case, that 4-week trial period had long passed.

The medical records submitted fail to document that chiropractic spinal adjustments were performed at any time. According to the AHCPR² guidelines, spinal manipulation was the only recommended treatment that could relieve symptoms, increase function and hasten recovery for adults suffering from acute low back pain; the British Medical Journal³ reported that spinal manipulation combined with exercise yielded the greatest benefit; JMPT⁴ reported that spinal manipulation may be the only treatment modality offering broad and significant long-term benefit for patients with chronic spinal pain syndromes; a study published in the Journal of Orthopaedic Medicine⁵ outlined the superiority of chiropractic care for chronic whiplash patients; and other studies^{6 7 8 9 10 11} have shown similar benefits of spinal manipulation for cervical spine conditions. On the other hand, mobilization (rendered to this patient) has been shown to be ineffective for patients with low back pain.¹² Based on those findings, this reviewer is perplexed why a doctor of chiropractic would withhold this proven treatment while performing a host of other non-recommended treatments.

² Bigos S., Bowyer O., Braen G., et al. Acute Low Back Problems in Adults. Clinical Practice Guideline No. 14. AHCPR Publication No. 95-0642. Rockville, MD: Agency for Health Care Policy and Research, Public Health Service, U.S. Department of Health and Human Services. December, 1994.

³ *UK Back pain Exercise And Manipulation (UK BEAM) randomised trial:* Medical Research Council, British Medical Journal (online version) November 2004.

⁴ Muller, R. Giles, G.F. J Manipulative Physiol Ther 2005;28:3-11.

⁵ Khan S, Cook J, Gargan M, Bannister G. A Symptomatic Classification of Whiplash Injury and the Implications for Treatment. Journal of Orthopaedic Medicine 1999;21(1):22-25.

⁶ Hurwitz EL, Morgenstern H, Harber P, Kominski GF, Yu F, Adams AH. A randomized trial of chiropractic manipulation and mobilization for patients with neck pain: clinical outcomes from the UCLA neck-pain study. Am J Public Health. 2002 Oct;92(10):1634-41.

⁷ Hoving JL, Koes BW, de Vet HC, van der Windt DA, Assendelft WJ, van Mameren H, Deville WL, Pool JJ, Scholten RJ, Bouter LM. Manual therapy, physical therapy, or continued care by a general practitioner for patients with neck pain. A randomized, controlled trial. Ann Intern Med. 2002 May 21;136(10):713-22.

⁸ Gross AR, Hoving JL, Haines TA, Goldsmith CH, Kay T, Aker P, Bronfort G, Cervical overview group. Manipulation and Mobilisation for Mechanical Neck Disorders. Cochrane Database Syst Rev. 2004;1:CD004249.

⁹ Koes, B, Bouter, L, et al. Randomised clinical trial of manipulative therapy and physiotherapy for persistent back and neck complaints: results of one year follow up. BMJ 1992;304:601-5.

¹⁰ Koes BW, Bouter LM van Mameren H, et al. A randomized clinical trial of manual therapy and physiotherapy for persistent neck and back complaints: sub-group analysis and relationship between outcome measures. J Manipulative Physio Ther 1993;16:211-9.

¹¹ Cassidy JD, Lopes AA, Yong-Hing K. The immediate effect of manipulation versus mobilization on pain and range of motion in the cervical spine: A randomized controlled trial. J Manipulative Physio Ther 1992;15:570-5.

¹² Frost H, Lamb SE, Doll HA, Carver PT, Stewart-Brown S. Randomised controlled trial of physiotherapy compared with advice for low back pain.

BMJ. 2004 Sep 25;329(7468):708. Epub 2004 Sep 17.

Therefore, since the treating doctor never attempted a proper regimen¹³ of this recommended form of treatment, there was no medical basis to continue unsuccessful treatments.

Therapeutic exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the continuing services were required to be performed one-on-one when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."¹⁴ Services that do not require "hands-on care" or supervision of a health care provider are not considered medically necessary services even if the services are performed by a health care provider. Moreover, after several months of monitored instruction, the claimant should have certainly been able to perform the exercises on his own.

Based on CPT¹⁵, there is no support for the medical necessity of the 99212-25 and 99213-25 office visits during an established treatment plan...and certainly not on each and every date of service.

And finally, there is no documentation that the disputed treatment met the statutory requirements¹⁶ for medical necessity since the patient obtained no relief from the treatment, promotion of recovery was not accomplished by the treatment and there was no enhancement of the employee's ability to return to employment as a result of the treatment. In fact, the patient's complete and total lack of response to treatment is documented by the fact that the provider recommended a work hardening program on 09/30/04 and recommended a chronic pain management program on 12/06/04.

¹³ Haas M, Group E, Kraemer DF. Dose-response for chiropractic care of chronic low back pain. *Spine J.* 2004 Sep-Oct;4(5):574-83. "There was a positive, clinically important effect of the number of chiropractic treatments for chronic low back pain on pain intensity and disability at 4 weeks. Relief was substantial for patients receiving care 3 to 4 times per week for 3 weeks."

¹⁴ 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.

¹⁵ *CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised.* (American Medical Association, Chicago, IL 1999),

¹⁶ Texas Labor Code 408.021