

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER: 453-05-7479.M5

MDR Tracking Number: M5-05-2152-01

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, 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 04-01-05.

The IRO reviewed office visits, x-ray of lower spine, manual therapy technique, electrical stimulation-manual, mechanical traction, therapeutic exercises, functional capacity exam, therapeutic activities, neuromuscular re-education rendered from 06-14-04 through 12-17-04 that were denied based upon "V".

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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 04-29-05, 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.

Review of CPT code 99213 dates of service 06-16-04, 06-21-04, 06-23-04, 06-24-04, 06-25-04, 07-02-04, 08-23-04, 09-22-04, 09-23-04, 09-24-04, 10-08-04, 10-11-04, 10-13-04, 10-15-04 and 10-18-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not submit convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

Review of CPT code 97140-59 dates of service 07-01-04, 07-02-04, 07-05-04, 07-06-04, 07-07-04, 09-02-04, 09-22-04, 09-23-04, 09-24-04, 10-08-04, 10-11-04, 10-13-04, 10-15-04 and 12-14-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not submit convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

Review of CPT code 97750-FC dates of service 08-10-04, 11-02-04 and 12-13-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not submit convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

Review of CPT code 97110 dates of service 09-22-04, 09-23-04, 10-06-04, 10-08-04, 10-11-04, 10-13-04 and 10-15-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not submit convincing evidence of carrier receipt of the providers request for EOBs. In addition, recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. Reimbursement not recommended.

Review of CPT code 97530 dates of service 09-22-04, 09-23-04, 10-06-04, 10-08-04, 10-11-04, 10-13-04 and 10-15-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not submit convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

Review of CPT code 97112 dates of service 09-22-04, 09-23-04, 10-06-04, 10-08-04, 10-11-04, 10-13-04 and 10-15-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not submit convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

CPT code 99455-L5-WP date of service 12-20-04 and CPT code 99455-VR date of service 12-22-04 listed on the table of disputed services are indicated by the carrier's EOB to have been paid in full. Verification of payment was made with the requestor, therefore, these services are no longer in dispute.

This Findings and Decision is hereby issued this 19th day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enc: IRO decision



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

NOTICE OF INDEPENDENT REVIEW DECISION

Date: May 18, 2005

To The Attention Of:

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

RE: Injured Worker:**MDR Tracking #:** M5-05-2152-01**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:

- Correspondence Letter from Cornerstone Clinic, INC dated 5/4/05
- Medical Dispute Resolution Request/Response
- Table of Disputed Services
- Consultation/Examination dated 6/14/04 from Cornerstone Chiropractic Clinic
- Designated Doctor Examination dated 11/14/03 Paul Breeding, D.C.
- Radiograph Report of the Lumbar spine dated 6/5/03 from Lone Star Radiology
- Nerve Conduction Study dated 6/10/03 from MetroPlex Diagnostics
- Internal Radiology Report dated 9/25/03
- MRI of the Lumbar Spine dated 6/6/03 from White Rock MRI
- Consultation Report from James Laughlin, D.O.
- Impairment Rating dated 11/17/03 from Paul Breeding, D.C.
- Review of Medical History & Physical Examination dated 8/13/04 from Anthony Gioia, M.D.
- MRI of the Lumbar Spine dated 9/28/04 from Texas Imaging & Diagnostic Center
- Initial Functional Capacity Evaluation dated 6/28/04
- Electrophysiological Study and Ultrasound Study reports from Key West Neurology, P.A.
- Report of Medical Evaluation dated 12/20/04 from Laurence Smith, D.C.
- Designated Doctor Examination Report dated 12/6/04 from Charles Murphy, M.D.
- Daily Soap Notes from Cornerstone Clinic, Inc. dates 6/14/04-12/17/04
- Exercise, Stretching, Cardiovascular Program for Work Conditioning/Work Hardening & Rehabilitation dates 6/30/04-12/20/04

- Patient Report for Selected Patient dates 6/14/04-12/17/04
- Time Cards dates 6/30/04-11/15/04

Submitted by Respondent:

- Notice of IRO
- Preliminary Chiropractic Modality Review dated 7/14/04 from Glenn Marr, D.C.
- Reconsideration 7/27/04 from Thomas Sato, D.C.

Clinical History

I have had the opportunity to review the medical records in the above-mentioned case for the purpose of an Independent Review. Mr. ___ is a 69-year-old male who injured his low back without radicular symptoms while working for _____. The claimant was initially seen at Accident and Injury where treatment was provided including physical therapy and rehabilitation. The claimant changed treating physicians to Laurence Smith, D. C. on 6/14/04 whose treatment included physical therapy modalities, therapeutic exercises, and a rehabilitation program. The claimant had x-rays of the lumbar spine performed on 6/5/03 at Lone Star Radiology which revealed postural alterations and surgical clips in the right upper quadrant of the abdomen. The claimant also had a MRI of the lumbar spine performed on 6/6/03 at White Rock MRI which revealed flattening of the lumbar lordosis secondary to muscle spasm or possible patient positioning, degenerative disc disease at L5, with posterior bulging of L5 annulus by 2-3 mm which contacts but does not significantly displace the thecal sac. The claimant had a nerve conduction study performed on 6/10/03 by Natalia Kogan, D.C. which revealed evidence of bilateral L5 nerve irritation with the remainder of the lower extremity nerve conduction study relatively unremarkable. The claimant was examined by Anthony Gioia, M.D. on 8/13/04 and determined the claimant was not at MMI and recommended further diagnostic studies to rule out pathology. The claimant had another MRI of the lumbar spine performed on 9/28/04 at Texas Imaging & Diagnostic Center which revealed minimal generalized disc bulge at L5/S1 combined with facet hypertrophy causing mild to moderate spinal stenosis and mild bilateral foraminal narrowing, diffuse annular bulge at L4/L5 combined with facet hypertrophy causing mild to moderate spinal stenosis, diffuse annular bulge at L3/L4 combined with facet hypertrophy causing mild spinal stenosis, diffuse annular bulge at L2/L3 with no spinal stenosis or foraminal narrowing and desiccation involving all lumbar intervertebral discs. The claimant was examined on 8/13/04 by Anthony Gioia, M.D. who states that the claimant is not at MMI and recommends further diagnostic studies to rule out any significant pathologies. The claimant was determined at MMI by treating physician Laurence Smith, D.C. with a 10% whole person impairment rating.

Requested Service(s)

Office visits (99205/99213), x-ray of lower spine (72110), manual therapy technique (97140-59), electrical stimulation – manual (97032), mechanical traction (97012), therapeutic exercises (97110), functional capacity exam (97750-FC), therapeutic activities (97530), neuromuscular re-education (97112) for dates of service 6/14/04 to 12/17/04

Decision

I agree with the insurance carrier and find that office visits (99205/99213), x-ray of lower spine (72110), manual therapy technique (97140-59), electrical stimulation-manual (97032), mechanical traction (97012), therapeutic exercises (97110), functional capacity evaluation (97750-FC), therapeutic activities (97530), neuromuscular re-education (97112) are not reasonable and necessary 13 months post injury and further treatment beyond this time frame would be considered excessive.

Rationale/Basis for Decision

I form this decision using the Official Disability Guidelines 10th Edition which is a guideline of specific conditions which uses a major source being the "Mercy Guidelines", the consensus document created by the American Chiropractic Association in conjunction with the Congress of State Chiropractic Associations, entitled Guidelines for Chiropractic Quality Assurance and Practice Parameters, Proceedings of the Mercy Center Consensus Conference. The Official Disability Guideline 10th Edition allows up to 18-chiropractic treatment or 10 physical therapy visits with evidence of functional improvement over a 6-8 weeks for an apparent lumbar disc injury. Based on the provided documentation from James Laughlin, D.O. the claimant had prior treatment with physical therapy that was responding favorably prior to his treatment with Dr. Smith. The claimant then consulted with Dr. Smith on 6/14/04 and had approximately 108 chiropractic visits including a rehabilitation program, which far exceeds these recommendations of the Official Disability Guidelines. It would have seemed reasonable for the claimant to have been faded from active care and instructed with a home treatment exercise program of stretching and strengthen of the lumbar spine. It is from these Guidelines I form my decision for the above reference claimant. It also appears that the claimant does have a pre-existing degenerative condition in the lumbar spine as evident on the MRI findings. I reference the following as per the Orthopedic Knowledge Update-5 as published by the American Academy of Orthopedic Surgeons, pg. 589, "Over the third through the fifth decades of life, progressive degenerative changes occur in the spine that may be quite dramatic. In general, the first manifestations of aging are seen in the intervertebral disks, with subsequent changes in the bones and articular processes becoming evident. *Diffuse bulging* or focal extrusion of disk material will result in narrowing of the intervertebral disk space."

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 18th day of May 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder