

MDR Tracking Number: M5-05-2218-01

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 04-11-05.

The IRO reviewed office visits-outpatient visit, new, office visit-established patient, electrical muscle stimulation, manual therapy technique, durable medical equipment, chiropractic manipulation, therapeutic exercises, neuromuscular re-education, physical performance test rendered from 06-22-04 through 09-24-04 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 05-04-05, 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 codes 97032, 97140, 98940 and 97110 on date of service 07-09-04, code 97140 on date of service 09-01-04 and codes 99212, 97032, 97140 and 97110 on dates of service 09-03-04 and 09-07-04 revealed that neither party submitted copies of EOBs. Per Rule 133.707(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

This Findings and Decision is hereby issued this 31st day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

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: May 26, 2005

To The Attention Of:

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

RE: Injured Worker:
MDR Tracking #: M5-05-2218-01
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:

- MRI of the Lumbar Spine – without Gadolinium performed at Memorial MRI & Diagnostic on 4-13-04
- Functional Capacity Evaluation performed on 9-1-04 by Wayne Parks, D.C. on a request by Brett Garner, D.C. at Optimum Medical Testing
- Medical Report from Dr. Brian H. Le, D.C. dated 3-5-04 of West Houston Chiropractic and Associates
- Medical Report from Dr. Jose Reyes, Jr., M.D. dated 3-16-04 (initial visit comprehensive evaluation), 3-30-04 (follow-up visit), of Pain Management Consultants

- Medical Report from Dr. Parvez Qureshi, M.D. dated 5-14-04 of Pain Management & Rehabilitation for nerve conduction studies of bilateral lower extremities
- Medical Report from Dr. Jaime Ganc, M.D. dated 9-15-04 of Interactive Pain Management for Psychiatric Evaluation
- Medical Report from Dr. Andrew McKay, M.D. dated 9-21-04 of U.S. Anesthetics Services for Comprehensive Pain follow-up, report dated 7-6-04 for Comprehensive Pain Consultation, and report dated 7-29-04 operative report of epidural steroid injection (ESI) procedure performed at Fort Bend Surgery Center, Inc.
- Medical Report from Lee Nickel, P.T. dated 9-16-04 for Therapy Reevaluation, 7-2-04 for Initial Therapy report, 11-8-04 for Therapy Reevaluation at Pain & Recovery Clinics of Houston
- Medical Report dated 8-6-04 from Walter K. Long, M.D.
- Medical Report dated 6-2-04 from William Hicks, D.C. for Initial Medical Report of Pain & Recovery Clinics of Houston
- Subsequent Medical Report from Brett Garner, D.C. of Pain and Recovery Clinics of Houston dated 8-19-04
- Medical Report from Brett Garner, D.C. 6-7-04

Submitted by Respondent:

- Medical Dispute Resolution Request / Response
- Table of Disputed Services
- TWCC-62 Explanation of Benefits – DOS 6-22-04 to 9-24-04
- Report from Chrischelle Mitchell, Bill Auditor for Health Administration Services
- Medical Record Review from Roger Canard, D.C. of Health Administration Services dated 1-4-05
- Independent Medical Evaluation by James Hood, M.D. on 10-18-04
- Designated Doctor Evaluation by Sally Awad, M.D. on 2-18-05, 10% Impairment
- Worker's Compensation Evaluation dated 3-5-04 by Brian Le, D.C.
- MRI of the Lumbar Spine – without Gadolinium performed at Memorial MRI & Diagnostic on 4-13-04
- Medical Report from Dr. Parvez Qureshi, M.D. dated 5-14-04 of Pain Management & Rehabilitation for nerve conduction studies of bilateral lower extremities
- Functional Capacity Evaluation performed on 9-1-04 by Wayne Parks, D.C. on a request by Brett Garner, D.C. at Optimum Medical Testing
- Functional Capacity Evaluation performed on 1-5-05 by Wayne Parks, D.C. on a request by Brett Garner, D.C. at Optimum Medical Testing
- Medical Report from Dr. Jose Reyes, Jr., M.D. dated 5-25-04 for an Operative Report for an ESI performed at L4/L5 level
- Medical Report from Dr. Andrew McKay, M.D. dated 7-29-04 operative report of ESI procedure performed at Fort Bend Surgery Center, Inc.
- TWCC 73 from Brian Le, D.C.; 3-5-04, 4-2-04, 4-30-04, 5-28-04
- TWCC 73 from Jose Reyes, M.D.; 4-1-04, 4-29-04, 6-10-04
- TWCC 73 from Brett Garner, D.C.; 8-19-04, 1-27-05, 1-27-05
- Patient Prescription for physical therapy (PT) under the care of Dr. Le; 3-5-04 to 6-10-04

- Daily Progress Note under the care of Brett Garner D.C. and Lee Nickel, P.T.; 6-22-04 to 1-20-05
- Medical Report from Dr. Jaime Ganc, M.D. dated 9-15-04 of Interactive Pain Management for Psychiatric Evaluation
- Medical Report from Dr. Jose Reyes, Jr., M.D. dated; 3-16-04, 3-30-04, 4-27-04, 6-8-04
- Health Administration Services 4-7-04 approval of TENS unit for 30 days trial
- 4-2-04 Prescription/Letter of Medical Necessity TENS Unit
- Medical Report from Brett Garner, D.C. dated 6-22-04 (initial medical report), 8-19-04 (subsequent medical report)
- Medical Report from Dr. Andrew McKay, M.D. dated 9-21-04 of U.S. Anesthetics Services for Comprehensive Pain follow-up, report dated 7-6-04 for Comprehensive Pain Consultation, 2-28-04, (Comprehensive Pain Follow-Up), ___ (Pain Management Follow-Up and Evaluation) and 12-28-04
- Gulf Coast DME; Fitting and Patient Acceptance form, prescription form 7-8-04 for EMS-50
- Medical Report dated 8-6-04 from Walter K. Long, M.D.
- Medical Report by Carloyn Kowalski, M.Ed., LPC reports dated 10-20-04, 11-5-04, 11-8-04, 11-9-04, 12-16-04 Reconsideration request
- 1-26-05 Request of Work Conditioning Program by Lee Nickel, L.P.T.

Clinical History

Ms. ___ is a 41 year-old female who sustained a slip and fall injury while working for On ___, she allegedly slipped on a piece of lettuce causing her to do a slip. It has been noted that her fall was stopped by her outreached left arm and directly falling her buttocks and lower back. Her chief complaint is that of left hip and lumbar pain with associated hypoesthesia of her left lower extremity.

She was initially seen by Brian Le, D.C. on 3-5-04. Dr. Le's diagnosis was to rule out intervertebral disc syndrome (IVD) syndrome, lumbar facet syndrome, cervical sprain/strain, rule out left shoulder internal derangement, left wrist sprain/strain, and SI dysfunction. She was seen 3-4 times per week from 3-5-04 to 6-18-04. PT therapies included cold pack, hot pack, electrical muscle stimulation (EMS), ultrasound, myofascial release, therapeutic exercises and chiropractic manipulation to cervical, lumbar and left shoulder. Dr. Le referred Ms. ___ to Dr. Jose Reyes, M.D. on 3-16-04 and prescribed her a Medrol dose pac, Ultram, Naprosyn, and Skelaxin. Dr. Reyes also suggested left facet joint injections at L3/L4, L4/L5, L5/S1 and the sacroiliac joint. A follow up visit with Dr. Reyes on 3-30-04 suggested the patient to continue with Ultram, Skelaxin and Naprosyn and request that Dr. Le order an MRI of the lumbar spine. On 4-13-04 an MRI of the lumbar spine was performed at Memorial MRI & Diagnostic the findings indicate posterior annular tears and a broad-based disc bulges at L4/L5 and L5/S1 with possibility of left and right L5 radiculopathy as indicated by Chris Wright, M.D. Dr. Parvez Qureshi performed a nerve conduction velocity of bilateral lower extremities on 5-14-04 and found evidence of L5/S1 radiculopathy and nerve root irritation. ESI was given to Ms. ___ on 5-25-04 by Dr. Reyes at L4/L5 level. Ms. ___ transferred her care and began treatments with Brett Garner, D.C. and Lee Nickel, P.T. on 6-22-04 until 1-20-05. Treatments included an office visit, attended electrical muscle stimulation, manual therapy technique, chiropractic manipulation, therapeutic exercises, neuromuscular re-education and hot or cold pack. She was also prescribed a portable electrical

muscle stimulation unit (EMS-50) on 7-8-04. On 9-1-04 a Function Capacity Evaluation was performed by Wayne Parks, D.C. on a request by Brett Garner, D.C. The FCE data indicated that Ms. ___ was classified as a Sedentary-Light to Light work. A repeat FCE was performed on 1-5-05 as requested by Brett Garner D.C. The findings indicated Ms. ___ to be at Medium work classification. She continued to follow up with Dr. McKay for comprehensive pain management evaluation. At this time she also underwent pain management with Carloyn Kowalski attending medication and therapy management. A psychiatric evaluation on 9-15-04 was performed by Jaime Ganc, M.D. on which Ms. ___ was to continue PT with William Hicks, D.C., was given Cymbalta, and diagnosed as anxious and depressed and requested 8 individual psychotherapy sessions and 4 sessions of medication management. On 2-18-05 she attended a Designated Doctor appointment and was assigned a 10% impairment by Sally Awad, M.D.

Requested Service(s)

CPT codes 99204 office/outpatient visit, new, 99212 & 99214 office visit, established patient, 97032 electrical muscle stimulation, 97140 manual therapy technique, E1399 durable medical equipment (DME), 98940 chiropractic manipulation, 97110 therapeutic exercises, 97112 neuromuscular re-education, 97750 physical performance test for dates of service 6-22-04 through 9-24-04

Decision

I agree with the insurance carrier that services in dispute are not medically necessary.

Rationale/Basis for Decision

The above decision was based on using the Official Disability Guidelines 10th Edition and Proceedings of the Mercy Center Consensus Conference, "Best Practices: Chiropractic Management of Low Back Pain" prepared by the Council on Chiropractic Guidelines and Practice Parameters, 2004 and ACOEM's Occupational Medicine Practice Guidelines, second edition, on the web. According to the above stated guides, appropriate treatments is conducted up to 6-8 weeks allowing 18 chiropractic visits and/or 20 physical therapy visits with evidence of functional improvement, a goal of decreasing frequency and avoiding chronicity along with introduction of a home based therapy program (McKenzie method). The claimant attended 44 treatments with Brian Le, D.C. and 39 with Brett Garner, D.C., for a total of 83 visits. Dates of service 6-22-04 to 9-24-04 are definitely above the recommended parameters of the Official Disability Guidelines 10th edition. As per stated guidelines, there are no long term benefits for passive and active modalities beyond the 6-8 weeks parameter. A home based exercise program after 8 weeks of treatment should allow the patient to maintain maximal levels of activity, including work activities. The patient should be informed that this may temporarily increase symptoms. While the patient is recovering from low back symptoms, activities that do not aggravate symptoms can be maintained, and exercises (McKenzie method) to prevent debilitation due to inactivity can be advised. Aerobic exercise is beneficial as a conservative management technique and exercising as little as 20 minutes twice a week can be effective in managing low back pain. Studies have indicated that the best long-term outcome is the immediate return to normal activity with the emphasis of improving function (ACOEM's Occupational Medicine Practice Guidelines, second edition, on the web).

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 26th day of May 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder