

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) HCP () IE () IC	Response Timely Filed? (X) Yes () No
Requestor's Name and Address Work and Accident Clinic 4924 Greenville Avenue Dallas, Texas 75206	MDR Tracking No.: M5-05-3063-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Zurich American Insurance Company, Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
5-10-04	6-7-04	CPT codes 99213, 97110, 97112, 97750	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor did **not** prevail on the disputed medical necessity issues.

PART IV: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

Donna Auby

7-27-05

Authorized Signature

Typed Name

Date of Order

PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____

PART VI: YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within 20 (twenty) days of your receipt of this decision (28 Texas Administrative Code § 148.3). This Decision was mailed to the health care provider and placed in the Austin Representatives box on _____. This Decision is deemed received by you five days after it was mailed and the first working day after the date the Decision was placed in the Austin Representative's box (28 Texas Administrative Code § 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas, 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request.

The party appealing the Division's Decision shall deliver a copy of their written request for a hearing to the opposing party involved in the dispute.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

July 20, 2005

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

Re: Medical Dispute Resolution
Old MDR #: M5-05-2439-01
New MDR #: M5-05-3063-01
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
M5-05-2439-01

Information Provided for Review:

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

Information provided by Requestor:

Correspondence

Physical therapy notes 04/12/04 – 06/09/04

FCE 11/20/03 – 07/26/04

Nerve conduction study 02/27/04

Radiology report 12/01/03

Information provided by Respondent:

Designated doctor reviews

Information provided by Spine Surgeon:

Office note 02/25/04

Clinical History:

Patient is a 34-year-old female who, on ____, picked up a box while twisting and developed a sharp pain in her back with radiating pain and numbness into her right leg. She was seen initially by Concentra, and was returned to work light-duty, but reportedly none was available. She was then referred for physical therapy. An MRI performed on 12/1/03 revealed mild lumbar spondylosis and small bulges at both L4-5 and L5-S1 without neural compromise, or either central canal or neuroforaminal stenosis.

In January 2004, the patient changed treating doctors to a doctor of chiropractic and began chiropractic care on 1/15/04 to include supervised exercises and neuromuscular reeducation. An EMG/NCV was performed on 2/27/04 and was read as normal. A designated doctor examination was performed on 6/11/04 and he felt that the patient was not yet at MMI, and an IME was then performed on 6/14/04 who arrived at the same assessment. Another IME was performed on 7/28/04 who opined that the patient was at MMI with a 5% whole-person impairment.

Disputed Services:

Office visits, therapeutic exercises, neuromuscular re-education, physical performance test during the period of 05/10/04 thru 06/07/04.

Decision:

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

Rationale:

The first date of medical records submitted for review from the treating doctor of chiropractic was 4/12/04. Therefore, it is impossible to determine what types of treatments had been performed on this patient – and/or what their effects were – prior to that date.

However, nothing in either the diagnosis or the records submitted around that date supported the medical necessity of performing an expanded problem-focused Evaluation and Management (E/M) service on each and every patient encounter, and particularly not during the course of what appeared to be an already-established treatment plan. Furthermore, the “clinic daily notes” did not adequately document the performance of this E/M service, per CPT1. Therefore, the established patient office visits (99213) were not supported as medically necessary.

In terms of the supervised therapeutic exercises (97110), they 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 failed to establish what was extenuating or complicated about this particular case that necessitated ongoing one-on-one supervision of therapeutic exercises, particularly when current medical literature states, “...there is no strong evidence for the effectiveness of supervised training as compared to home exercises.”² In other words – absent any specific documentation to the contrary – at six months post-injury, the claimant should have certainly been able to perform her lower back exercises on her own. In addition, any gains obtained in this time period would have likely been achieved through performance of a home program.

In regard to the neuromuscular reeducation services (97112), there was nothing in either the diagnosis or the physical examination findings on this patient that demonstrated the type of neuropathology that would necessitate the application of this service, and particularly not with documentation of a negative EMG/NCV. According to a Medicare Medical Policy Bulletin³, “This therapeutic procedure is provided to improve balance, coordination, kinesthetic sense, posture, motor skill, and proprioception. Neuromuscular reeducation may be

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

2 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.

3 HGSA Medicare Medical Policy Bulletin, Physical Therapy Rehabilitation Services, original policy effective date 04/01/1993 (Y-1B)

reasonable and necessary for impairments which affect the body's neuromuscular system (e.g., poor static or dynamic sitting/standing balance, loss of gross and fine motor coordination, hypo/hypertonicity). The documentation in the medical records must clearly identify the need for these treatments." In this case, the documentation failed to fulfill these requirements, rendering the performance of this service medically unnecessary.

All these points aside, however, the main issue is that the records demonstrated that the care rendered failed to meet the statutory requirements⁴ for medical necessity since the patient did not obtain relief ("clinical daily notes" revealed that pain scale ratings remained at "7" or "8," out of a possible 10, through the dates in question), promotion of recovery was not accomplished (range of motion testing demonstrated an actual *worsening* between dates 5/20/04 and 7/1/04), and the patient remained off work (reported in the records).

Finally, and as a final note, no documentation was presented to indicate that chiropractic spinal adjustments were performed at any time. According to a study published in *Spine*⁵, chiropractic spinal manipulation yielded the best results for chronic spinal pain; the *British Medical Journal*⁶ reported that spinal manipulation combined with exercise yielded the greatest benefit; and *JMPT*⁷ reported that spinal manipulation may be the only treatment modality offering broad and significant long-term benefit for patients with chronic spinal pain syndromes. Based on those findings, this reviewer does not understand why a doctor of chiropractic would withhold a proper regimen⁸ of this type of treatment while performing other therapies and procedures. Since it appears that the patient's problems were not appropriately addressed through chiropractic adjustments, this reviewer is not at all surprised that the patient failed to experience any significant relief in her symptoms.

4 Texas Labor Code 408.021

5 Giles LGF, Muller R. Chronic Spinal Pain - A Randomized Clinical Trial Comparing Medication, Acupuncture, and Spinal Manipulation. *Spine* 2003; 28:1490-1503.

6 Medical Research Council, British Medical Journal (online version) November 2004.

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

8 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."