

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 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 chiropractic services were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that chiropractic service fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 9/12/01 to 3/25/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 10th day of, March 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

NOTICE OF INDEPENDENT REVIEW DECISION

Date: February 19, 2003

Rosalinda Lopez
TWCC
4000 South IH-35, MS-48
Austin, Texas 78704-7491

RE: MDR Tracking #: M5-03-0094-01
IRO Certificate #: 5242

___ 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 ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ 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 physician reviewer. The Chiropractic physician 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.

Clinical History

It appears the claimant suffered slip and fall injury down some steps landing on her left side during the normal course and scope of her employment on ____. The claimant was documented to be a school teacher. An MRI of the lumbar spine revealed there to be an L5/S1 non-compressive protrusion/herniation with a possible disc annular tear at the L5/S1 level. There were facet degenerative changes bilaterally at the L4/5 level contributing to some narrowing of the lateral recess bilaterally at the L4/5 level. Electrodiagnostic tests which were done in one location and sent to another location for interpretation revealed some evidence of radiculopathy bilaterally at the L5/S1 level. An initial narrative chiropractic report of 5/25/01 from ___ revealed the claimant to be complaining of low back pain and left lower extremity pain. The claimant had some self perceived decreased sensory feelings at the L3, L5 and S1 levels in the left leg. The chiropractic diagnoses were lumbar radiculitis, grade 2 sprain/ strain of the lumbar spine, joint inflammation, thigh contusion and muscle spasms. A follow up re-evaluation from the chiropractor on 9/4/01 revealed there to be decreased subjective pain and that the claimant's pain was not as constant. The claimant was still felt not to be able to work; however, it was the claimant who felt this way and not according to the chiropractor. The claimant continued to be neurologically intact. Lumbar range of motion was suspiciously reduced. A ___ recommended continued rehabilitation and felt the claimant was not a surgical candidate. An FCE of 9/12/01 revealed the claimant to only be functioning at the sedentary level. She was noted to perform very weakly on some of her lifts. When comparing the 9/12/01 FCE to the 11/20/01 FCE there are literally no changes in lift ability and the claimant was still noted to be functioning at the sedentary level. The claimant was noted to appreciate a 1-3 pound increase in her lifts and it was felt the claimant had only sustained a 6% improvement as of the 11/20/01 follow up FCE. Work hardening was recommended. Multiple work hardening notes are reviewed. The claimant had difficulty lifting grocery bags on 10/29/01. She continued to have pain on picking up her purse on 11/5/01. The claimant's pain levels were still fairly significant at a 3-4/10 pain level as of an FCE of 11/20/01. For some reason the claimant's low back pain increased to a 9/10 level with bilateral leg weakness noted on 11/26/01. A psychological evaluation of 10/3/01 is reviewed revealing the claimant's husband has also been injured and was not working. It is not known if this injury was work related or due to some other accident. Multiple individual counseling notes are

reviewed. The claimant became dehydrated on 10/31/01 and had to go to ___ for an IV to be administered. The claimant's pain seemed to be worsening through November of 2001. The claimant was released from chiropractic care on 3/25/02. An IME or RME was done with ___; however, I do not have that report for review. The claimant also saw ___ and the diagnoses were bilateral lumbar facet syndrome, bilateral sacroiliitis and myofascial pain syndrome. The orthopedic consultation with ___ of 9/11/01 is reviewed revealing the claimant to have no evidence of adverse neurological involvement.

Requested Service(s)

Please review and address the medical necessity of the outpatient services that were rendered from 9/12/01 through 3/25/02.

Decision

I agree with the insurance carrier that the services rendered from 9/12/01 through 3/25/02 were not medically necessary.

Rationale/Basis for Decision

The documentation indicates that the claimant was a school teacher or aide who sustained a slip and fall injury onto her buttocks that produced no evidence of neurocompression on the MRI testing. It appears electrodiagnostic studies were done and inappropriately outsourced for interpretation. These vaguely mentioned the presence of findings consistent with bilateral L5 and S1 radiculopathy. I believe these studies should immediately be discounted due to the nature by which they were done and inappropriately outsourced for interpretation. The American Association of Electrodiagnostic Medicine frowns on this type of procedure. It was documented several times that the claimant had bilateral lower extremity symptoms which followed no dermatomal distribution. The documentation indicates the claimant underwent nonspecific passive and active chiropractic care at an unspecified frequency and duration for nearly 4 months before entrance into a work hardening program. Given the claimant's occupation as a light duty level worker and the evidence of sprain/strain injury that produced no consistent or reliable evidence of lumbar radiculopathy the claimant could have and should have been properly rehabilitated within a 3-4 month period via a regular active care program. Work hardening would not be considered reasonable or medically necessary for a teacher who has sustained a sprain/ strain injury. The evidence based Official Disability Guidelines 2003 edition from the Work Loss Data Institute recommends only about 6 weeks or 18 visits of chiropractic care for this type of situation. A regular return to work at her regular duty would have been sufficient for a work hardening program. The claimant could have been monitored to see how she responded to a regular return to work as a light duty school teacher. The documentation also contained no information from her treating physicians for why this claimant could not return to work. It was felt by the claimant that she could not return to work; however, her doctor should have been the one to determine if she was ready to return to work. It also appears the claimant has remained off work through 3/31/02 according to the chiropractor. It should also be mentioned that just because a claimant

functions barely below her recommended physical demand level on an FCE that this does not justify a work hardening program especially as it pertains to a light duty level teacher. Just because a claimant is in a tertiary level of treatment does not entitle her to all available treatment that is within the tertiary level of care. Treatment should be based on a diagnosis and the clinical findings not based on the 3 levels of care and stage of injury. The claimant also appeared to remain at the sedentary level despite work hardening. There was also evidence of alleged significant psychosocial dysfunction. I never saw evidence of this in the earlier documentation. It should also be mentioned that the claimant's husband was also out of work due to some type of accident and this would lead me to believe that she would be well versed in the game so to speak of workers' compensation and this in my opinion would throw up a red flag.

This decision by the IRO is deemed to be a TWCC decision and order.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requester and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 20th day of February 2003.