

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Medical Review Division has reviewed the IRO decision and determined, the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore, the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The impairment rating and report were found to be medically necessary. The other office visits, analgesic balm, joint mobilization and myofascial therapies were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these impairment rating and report charges.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 10/22/01 through 5/7/02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 23rd day of April 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 18, 2003

Requester/ Respondent Address : Rosalinda Lopez
TWCC
4000 South IH-35, MS-48
Austin, Texas 78704-7491

RE: MDR Tracking #: M5-03-0507-01
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 Chiropractor physician reviewer. The Chiropractor 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

The claimant is a 30 year old Hispanic male, employed as an "electrical worker" for the ___. Reportedly on ___, he was climbing off of a mobile home onto the ground, when he "jarred" his lower back. The claimant reports the immediate onset of lower back pain which, the next day becomes more severe. He was initially seen by a company physician and then follows with the doctor on ___. He presents with lower back pain graded at a 7-9/10 on the visual analog scale. The doctor's evaluation reveals a 6'0", 146lb. male who presents with an antalgic gait and anterior weight bearing. His evaluation results in the following impressions:

1. 847.2 Lumbar sprain/strain
2. 728.85 Spasm of muscle

The doctor's care consists of chiropractic management and physical medicine procedures to include both passive and active care. Initial frequency is daily for one or two weeks, followed by three sessions per week for an additional one to two weeks. The claimant was also excused from work.

The claimant undergoes an MRI on or about 7-24-00 that apparently reveals “minimal bulging at L3-4 with what was reported as a dilation of the left S1 nerve root.”

Electrodiagnostics performed on 7-31-00 were unremarkable for peripheral neuropathy or radiculopathy.

In March of 2001, the claimant enters into a chronic pain management program with a doctor.

On 10-15-01 this case was submitted for formal chiropractic peer review to a chiropractor. The doctor offers the following opinions regarding the case. First he states that: “it is clear that this claimant sustained no significant injury on ____.” “Diagnostics are indicative of a preexisting degenerative condition only.” He notes that the claimant has obviously undergone a more than adequate trial of conservative chiropractic management and physical therapy. He notes that the functional capacity exam in March of 2001 revealed less lifting ability when compared to lifting capacities measured in December 2000. This was following a 6 week Work Hardening Program. He notes; “ongoing chiropractic treatment does not appear to be reasonable and necessary and should be discontinued with regard to the occupational injury.” He notes that this claimant does not qualify for “life time medical benefits or at least no for supportive care, as defined by the Mercy Center Consensus Conference and the Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters.” He concludes ongoing chiropractic care is no longer reasonable and necessary. The case is also referred for formal peer review in regards to physical medicine and rehabilitation. The physician also offers several opinions regarding the case. When questioned as to whether treatment was reasonable and necessary, as of 10-17-01, he stated; “no.” He states that this claimant sustained no more than a “minor soft tissue low back injury on ____”, he continues that “there would be absolutely no medical necessity for any further medical treatment including following up office visits, prescription medications, diagnostic studies, injection therapy or physical therapy.” “Certainly no further chiropractic care would be indicated.” The claimant continues to be seen throughout the course of 2001 and into 2002. On 10-22-01 the claimant presents with a primary complaint of lower back pain with pain extending into the left lower extremity graded at a 6/10 on the visual analog scale. The visit appears to consist of primarily of counseling. Subsequent visits occur in November and December of 2001 as well as January, March and May of 2002.

On 12-11-01 the attending submits an “impairment rating narrative report” whereby he summarizes care and grades this claimant at maximum medical improvement. ____ refers to; 24 sessions of active and passive therapies from -15-00 to 12-8-00, 27 sessions of work hardening from 1-15-01 through 2-23-01 and the aforementioned chronic pain management program, completed on 7-23-01. We learn that the claimant now weighs 160 lbs. He continues with primary complaints of lower back pain.

The doctor’s impressions now include:

1. 722.10 Displacement of lumbar intervertebral disc without myelopathy
2. 729.1 Myofascial pain syndrome.

He feels that the claimant has reached maximum medical improvement and awards him a 5% whole body impairment assigning DRE Category II.

The most recent visit occurs on 5-7-02 and reveals that the claimant continues with lower back pain and left lower extremity pain graded at a 5/10 on the visual analog scale. On this date symptoms were apparently precipitated by riding in a car. Objectively, there was noted myofascial dysfunction and sensitivity to palpation of the lumbar facet joints. Mild to moderate restricted range of motion of the lumbar spine is also noted. Treatment consists of flexion distraction and or mobilization.

Requested Service(s)

The services in question were rendered from 10/22/01 through 05/07/02. Services included; office visits, analgesic balm, impairment exam, reports, joint mobilization, and myofascial release. Total dates of services; eight

Decision

I agree with the carrier that the services from 10/22/01 through 05/07/02 were medically unnecessary and unreasonable, with the exception of the impairment exam and subsequent medical report.

Rationale/Basis for Decision

Based upon the medical documentation reviewed, I must concur with the opinions of the doctors. The injury sustained was minor. Nothing in the medical suggests otherwise. Diagnostics were, for the most part, unremarkable. The chiropractic care was excessive for the sustained injury and subsequent diagnosis. Progression appeared to be minimal and inconsistent. The medical does not substantiate the outpatient care that was performed from 10/22/01 through 05/07/02. The only exception is the impairment evaluation of 12/11/01. As per TWCC Guidelines, the attending is responsible for assigning permanent residual impairment. This could only be done after performing an impairment examination. Filing an appropriate report would then follow.

The opinions rendered in this case are the opinions of this evaluator. This evaluation has been conducted on the basis of medical documentation as provided with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports, or reconsideration may be requested. Such information may or may not change the opinions rendered in this evaluation. This opinion is based on a clinical assessment from the documentation provided. This opinion does not constitute, per se, a recommendation for specific claims or administrative functions to be made or enforced.

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 TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 18 th day of April 2003.
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