

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 amount reimbursable for the medical services found medically necessary did not exceed the amount reimbursable for those services not medically necessary. Therefore, the Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, in accordance with §133.308(q)(9), the Commission **Declines to Order** the respondent to refund the requestor for 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 massage services from 6/24/02 through 7/22/02 were found to be medically necessary. Aquatic therapy from 6/24/02 through 8/21/02 were found not medically necessary. Massage services subsequent to 7/22/02 were found not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding & Decision is hereby issued this 15th day of January 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

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 6/24/02 through 8/21/02.

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 15th day of January 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

Date: December 10, 2002

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

RE: MDR Tracking #: M5-03-0546-01
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

Multiple and voluminous treatment records are provided for review. It appears the claimant was involved in a 10-15 mile per hour single vehicle work related motor vehicle accident on ___ when he struck a stationary object. The initial documentation from the emergency room from ___ indicates "Basically it was felt that the patient has a mild injury." It was noted the claimant had contusion and a small laceration in the mouth and chin region, and he also reported some right shoulder and right wrist pain along with some neck pain. The initial x-rays of these areas were normal as expected. The claimant reportedly received some stitches for the laceration near his mouth and chin area. The claimant initiated chiropractic care on or about 6/20/02 with ___. Multiple diagnoses were rendered including low back pain and lumbar sprain/strain injury. The claimant initiated some aquatic therapy, chiropractic care, and massage therapy almost immediately and appears to have been slowly transitioned to a land based activities program. The documentation still indicates the claimant is involved in some aquatic therapy as of early

November 2002 and still has high pain levels at an 8/10 pain level as of mid-November 2002. The claimant also has electrodiagnostic evidence of positive right C7 radiculopathy in the upper extremity; however, the claimant's cervical MRI is completely normal except for a reversal of the normal cervical curve. The claimant saw ___ on 6/28/02 for initial examination and, upon my review of the notations from ___, there was no subjective or objective low back complaints or findings. The diagnoses were limited to the TMJ and included cervical pain, cervical segmental dysfunction and muscle spasm. An functional capacity exam of 9/18/02 revealed the claimant to be functioning at the light to medium duty level. He mainly had right upper extremity numbness, tingling and pain, shoulder pain and neck pain during most of the functional capacity exam. The claimant's lumbar range of motion in fact was noted to be within normal limits and the claimant's cervical range of motion was suspiciously reduced. The claimant has undergone a documented 72 visits of massage through early November of 2002. Voluminous treatment notes, massage notes and aquatic therapy notes are reviewed.

Requested Service(s)

Please review and address the medical necessity of the inpatient services rendered from 6/24/02 through 8/21/02. The services rendered were mainly aquatic therapy at 4 units and massage therapy at anywhere from 1-3 units. There was an occasional office visit thrown in and an occasional medical report.

Decision

I agree with the insurance carrier that aquatic therapy was not reasonable and medically necessary. I disagree with the insurance carrier and find the massage services as rendered in various units from 6/24/02 through 7/22/02 were reasonable and medically necessary. I agree with the insurance carrier that massage services rendered subsequent to 7/22/02 were not reasonable and necessary.

Rationale/Basis for Decision

The severity of the injury and the overall documentation did not support the need for aquatic therapy. The early documentation from ___ as well as from the emergency room physician as well as ___, the designated doctor, revealed the main problem the claimant had was related to his mouth, chin, jaw and cervical spine region. The claimant also had some right C7 radiculopathy into the right upper extremity in the presence of a negative, or normal, MRI. There was some evidence of shoulder pain; however, there was no objective evidence of shoulder orthopedic lesion or impingement. In fact, the initial chiropractic documentation showed no evidence of shoulder problems with respect to objective findings. There was no documentation to support this claimant could not initially participate in some initial passive treatment with transition into land based activities within a short amount of time. The overall documentation and severity and type of injury does not support the need for aquatic therapy. I wholeheartedly agree with the concept of aquatic therapy and the chiropractor did document progress; however, the presence of progress in a program does not make the program reasonable and medically necessary. Also, just because aquatic therapy may be supported in the treatment guidelines within the first 2 levels

of treatment, does not make it an automatic entitlement in all cases. Aquatic therapy, in my opinion, for a motor vehicle accident which did not seem to result in serious injury below the neck is not supported. The documentation reveals the claimant was perfectly capable of land based activities including land based exercises and passive stretching along with some initial passive treatment.

As far as massage therapy was concerned, I do feel the massage therapy in the first 4 weeks of treatment of this claimant was reasonable and medically necessary. This would place end treatment date for massage as a passive modality to be 7/22/02 in this particular instance. The use of passive modality treatment loses its effectiveness after 4 weeks. The massage notes are not that impressive and continue to indicate the same findings, and there is no documentation of progress other than to state the claimant felt better after the massages. The claimant has also had 72 documented visits, by my count, of massage therapy through early November of 2002 and this is clearly excessive and exceeds all available treatment guidelines.

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