

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 requestor submitted a written request to withdraw issues on the table other than the medical necessity issues. Therefore, medical necessity issues are the only issues that will be addressed further in this Finding and Decision.

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 office visits and therapy from dates of service 10/29/01 through 12/31/01 and re-examinations on 1/10/02 and 2/22/02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these office visits and therapy 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 10/19/01 through 8/14/02 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 13th day of January 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

NOTICE OF INDEPENDENT REVIEW DECISION

December 30, 2002

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-0555-01
IRO Certificate #: 4326

___ 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 rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___ health care professional 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

This 24 year old male sustained a work related injury on ___ when he fell from a two foot ladder that collapsed under him. The patient fell backwards landing on the collapsed ladder and the floor. The patient experienced low back pain. Initial x-rays were negative for fractures or dislocations. The patient continues to complain of lower back pain and shooting pain into his right buttock and leg. A portion of the patient's treatment included chiropractic office visits, reports and physical therapy provided from 10/29/01 through 07/24/02.

Requested Service(s)

Chiropractic office visits, reports and physical therapy provided from 10/29/01 through 07/24/02.

Decision

It is determined that the chiropractic office visits, reports and physical therapy provided from 10/29/01 through 12/31/01 and the re-examinations noted on 01/10/02 and 02/22/02 were medically necessary to treat this patient's condition.

It is determined that the chiropractic office visits, reports and physical therapy provided from 01/09/02 through 07/24/02 except for the re-examinations performed on 01/10/02 and 02/22/02 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical record documentation indicates that the patient began chiropractic treatment on 08/24/01 and treatments were regularly administered from 08/24/01 to 10/29/01. Treatments continued after 10/29/01 and were administered through 08/14/02. A review of the patient's progress notes for dates of service from 10/22/01 through 08/14/02 revealed that the patient's self reported lower back pain increased over the course of treatment.

The patient underwent a lumbar MRI study on 09/13/01 that demonstrated a 2-3 mm disc herniation at L5-S1 that abutted the right S1 nerve root. The patient had a lower extremity electrodiagnostic evaluation on 10/30/01 that was normal. A functional capacity evaluation conducted on 12/03/01 revealed that the patient was capable of performing at the medium physical demand level, which was the required physical demand level for his job. The patient also underwent a psychological evaluation on 12/03/01 and the psychologist indicated that the patient exhibited a pain disorder with psychological and medical factors and depression, as well as severe lower back pain.

The patient underwent a designated doctor's evaluation on 12/20/01 and the designated doctor indicated that the patient was not at maximum medical improvement.

The patient underwent facet injections on 03/05/02 that were not successful in relieving his pain and the patient was then placed in an aquatic therapy program. A lumbar discogram was performed on 04/29/02 that revealed the presence of severe concordant pain at the L4-5 and L5-S1 levels. A tear was demonstrated in the L5-S1 disc. The patient was prescribed aquatic therapy, was prescribed a Medrol Dose Pack and was scheduled for lumbar epidural steroid injections, which were also unsuccessful in relieving the pain.

The patient underwent another designated doctor evaluation on 06/27/02 and the designated doctor indicated the patient was not at maximum medical improvement pending an intradiscal electrothermocoagulation (IDET) procedure. The 07/16/02 report from the pain management doctor indicated that the patient's recent epidural steroid injection was not successful and the patient underwent an IDET at L4-5 and L5-S1 on 08/20/02.

The patient was certified at maximum medical improvement by the designated doctor on 10/17/02 and the chiropractor concurred with the findings on 11/04/02.

The patient did not respond favorable to the chiropractic treatments and physical therapy treatment administered for his condition. The medical records indicated that the patient's average lower back pain score increased over the course of his chiropractic treatments and the records indicated that the

patient had a torn annulus and required operative intervention. The patient failed his course of chiropractic treatment and the treatment period of August to December of 2001 qualified as an adequate trial of chiropractic treatment. An adequate trial of care is identified as a course of two weeks each of different type of manual procedures (4 weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated. As referenced in Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993. The patient had a protracted course of care in excess of the parameters delineated by the above-mentioned document and has not demonstrated a favorable response to treatment.

Chiropractic literature is not supportive of protracted courses of treatment if favorable responses to treatment are not noted. Bronfort noted that, based on the most recent and comprehensive systematic reviews, there is moderate evidence of short-term efficacy for spinal manipulation in the treatment of both acute and chronic low back pain. There is insufficient data available to conclusions regarding the efficacy for lumbar radiculopathy.

The evidence is also not conclusive for the long-term efficacy of spinal manipulation for any type of low back pain. As reference in Bronfort G. "Spinal manipulation: current state of research and its indications." Neuro Clin 1999 Feb;17(1):91-111.

Chiropractic literature indicates that little is to be gained from prolonged courses of chiropractic care if there has not been adequate response in the first month of care. Bronfort, as referenced in Bronfort, G., "Chiropractic treatment of low back pain: A prospective survey", JMPT, 9:99-113, 1986, found that there was little improvement occurring in patients who responded poorly to the first month of care. The maximum benefits of manipulation are realized in the first month of care in the majority of patients, with diminishing returns after the first month of treatment.

Chiropractic literature demonstrates that the response to manipulation diminishes as the length of the condition increases. McDonald and Bell, in an open controlled pilot trial on nonspecific low back pain patients to assess the effects of spinal manipulation as reference in McDonald, R.S., and Bell, C., "An open controlled assessment of osteopathic manipulation in nonspecific low back pain", Spine, 15:364-370, 1990, found that after 4-6 weeks there was no appreciable improvement in the disability index (a measure of activities of daily living interference).

The treatment administered by the chiropractor consisted primarily of manipulation, with sporadic use of hot/cold packs (97010), unattended electrical stimulation (97014), ultrasound (97035) and therapeutic activities (97530). The use of unattended physical therapy modalities (97010, 97014, and 97035) was not medically necessary. The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (et, thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy as referenced in "Philadelphia Panel Evidenced-based Guidelines on Selected Rehabilitation Interventions for Low Back Pain", Phys Ther. 2001;81:1641-1674.

Hurwitz et al studied the net effect of physical modalities on low back pain outcomes among chiropractic patients in a managed-care setting. Clinically relevant improvements in average pain and disability were more likely in the modalities group at 2 and 6 weeks, but this apparent advantage

disappeared at 6 months. Perceived treatment effectiveness was greater in the modalities group. The authors concluded that physical modalities used by chiropractors did not appear to be effective in the treatment of patients with low back pain, although a small short-term benefit for some patients cannot be ruled out as referenced in Eric L. Hurwitz, et al, "The Effectiveness of Physical Modalities Among Patients With Low Back Pain Randomized to Chiropractic Care: Findings From the UCLA Low Back Pain Study", JMPT, Vol. 25, No. 1, 2002.

Therefore, the chiropractic office visits, reports and physical therapy provided from 10/29/01 through 12/31/01 and the re-examinations noted on 01/10/02 and 02/22/02 were medically necessary to treat this patient's condition. However, the chiropractic office visits, reports and physical therapy provided from 01/09/02 through 07/24/02 except for the re-examinations performed on 01/10/02 and 02/22/02 were not medically necessary to treat this patient's condition.

Sincerely,