

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 that the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare; 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 not the only issue** to be resolved. There are still fee issues to be resolved.

Requestor billed for office visit/manipulation, physical therapy, acupuncture, and required reports on 5-8-02, 5-10-02, 5-18-02, 5-24-02, 6-10-02, 7-1-02, 7-15-02, and 10-31-02. The insurance carrier denied these charges as not medically necessary. The IRO deemed these services as not medically necessary. Therefore, no reimbursement is recommended.

Requestor billed for required reports (TWCC-73) on 1-19-02, 1-28-02, 2-16-02, 3-2-02, 3-16-02, 3-30-02, 4-13-02, and 4-29-02. The insurance carrier denied these charges as "N – no change in work status." Requestor submitted the work status reports for these disputed dates of service. TWCC Rule 129.5 (d) states the doctor shall file a work status report after the initial exam, change in work status or substantial change in activity restrictions, and when requested by the carrier, not to exceed one report every two weeks and based on the scheduled office visit. The rule does not prohibit reimbursement for untimely submissions. Daily notes support office visit on 4-29-02. Therefore, recommend reimbursement of \$15.00.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay \$ 15.00 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 1-19-02 through 10-31-02 in this dispute.

This Order is hereby issued this 21st day of March 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

NOTICE OF INDEPENDENT REVIEW DECISION

Date: 12/16/02

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

RE: MDR Tracking #: M5-03-0687-01
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 Physical Medicine and Rehabilitation Chiropractic physician reviewer who is board certified in Physical Medicine and Rehabilitation Chiropractor. The Physical Medicine and Rehabilitation 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

The claimant is a sixty-two (62) year old right handed male. He is ___ inches in height and weighs approximately ___ pounds. The claimant was involved in a work related injury on ___. At the time of his injury, he and a fellow coworker were working on a bus lift at his job as an ___. At the time of the injury, they were trying to get a large metal piece out of a hydraulic hole, when he slipped and injured his lower back. He had an immediate onset of lower back pain and developed lower extremity pain afterwards. Immediately after the accident, the claimant states that he fell to the ground and was unable to walk.

The claimant's past medical history is significant for diabetes for the past twenty (20) to twenty-five (25) years. He is now insulin dependent. In February of 2001, approximately nine (9) months before his work injury, he did undergo a gallbladder removal. The claimant also had a previous back surgery, over thirty (30) years ago, which consisted of a discectomy and fusion at L5-S1.

It appears from the chart documentation that the claimant began care and treatment with a chiropractor, the day after his work injury on ____. His initial diagnosis was lumbar strain and radiculopathy. The claimant continues to this date to receive chiropractic care, which is now approximately thirteen (13) months. The treatment provided by the chiropractor has consisted of manual manipulation, traction, therapeutic exercise and acupuncture. In this past year of treatment, the claimant has received greater than sixty-five (65) chiropractic treatments, utilizing these modalities of therapy. Initially, the chiropractor saw the claimant three (3) times per week for the first eight (8) weeks after his work injury.

It comes now that the chiropractor is requesting full payment for services rendered in these greater than sixty-five (65) treatments, and is requesting continued chiropractic treatment for his patient, the claimant. The claimant has been evaluated by several physicians, and the physical examination has been essentially normal, except for a slight diminished right S1 Achilles response and the calf circumference in the left lower extremity was within one half inch, slightly smaller than the right lower extremity. These findings are more likely related to his previous back surgery of over twenty (20) years ago.

The claimant has also undergone an MRI study, which was reported as normal, and a nerve conduction study of the lower extremities, which was also reported as normal. On August 28, 2002, the claimant was evaluated by a chiropractor, who felt that the claimant was not at maximum medical improvement and should continue treatment. On October 28, 2002, an Orthopedic Surgeon, performed a required medical examination, with reference to The claimant. In that report, the claimant states that he no longer has left leg pain and he only has back pain with strenuous activities. The doctor's impression was degenerative disc disease of the lumbar spine, chronic with history of exacerbation. After reviewing the complete chart documentation provided, I tend to agree with the opinions expressed by the Orthopedic Surgeon, in his report of October 28, 2002, where he states that the claimant should have improved within sixty (60) to ninety (90) days, with appropriate conservative care. As noted in the progress notes, the claimant actually recovered sooner. In this case, chiropractic treatments do appear to be unreasonable and unnecessary beyond the six (6) weeks that is generally approved for this type of condition in the medical literature. As of October 28, 2002, the claimant has stated that he is ready to return to work, and it appears that he was functioning well enough to return to his previous occupation without restrictions.

Requested Service(s)

Continued chiropractic treatment.

Decision

Therefore, in summary, I would uphold the decision to deny further chiropractic or conservative care for the work injury of ____, and at maximum, payment should have ended for this conservative chiropractic treatment on December 31, 2001. This would have consisted of approximately twenty-three (23) treatment sessions.

Rationale/Basis for Decision

Treatments beyond this date of December 31, 2001, appear to be medically not necessary or appropriate for the work related injury. Therefore, I would state that after this date, the forty-three (43) chiropractic treatments given in 2002 be considered a non-covered service. This most definitely includes the dates in question from May 8, 2002 through July 31, 2002.

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 27th day of December 2002.