MDR Tracking Number: M5-03-0744-01

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 requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor $460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

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 chiropractic office visits with treatments provided from 12/3/01 through 2/18/02 and all of the work hardening program were found to be medically necessary. Office visits with treatments provided after 2/18/02 and the nerve conduction studies and dermatomal somatosensory evoked potential studies were not medically necessary. The respondent raised no other reasons for denying reimbursement for these office visits with treatments and work hardening charges.

This Finding and Decision is hereby issued this 25th day of March 2003.

Carol R. Lawrence
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 12/3/01 through 6/19/02 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 25th day of March 2003.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/crl

NOTICE OF INDEPENDENT REVIEW DECISION

December 31, 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 #: M5-03-0744-01
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 medicine.
___ 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 37 year old female sustained work related injury on ___ when a can fell on her left shoulder area resulting in pain. The patient was evaluated by a chiropractor with a diagnosis of left shoulder contusion with possible rotator cuff sprain versus a tear. Cervical x-rays performed on 11/28/01 revealed small osteophytes at C4 through C6 level consistent with degenerative joint disease. An MRI of the lumbar spine revealed no herniation. An MRI of the left shoulder region was within normal limits, and an MRI of the cervical spine revealed C4-5 and C5-6 levels 2mm posterior disc lesions without neural structure compromise. Nerve conduction studies of the bilateral upper and lower extremities were within normal limits. Dermatosensory evoked potentials for the bilateral S1 levels were prolonged, suggestive of nerve root dysfunction at S1 level. The bilateral dermatosensory evoked potentials for the C6, C7, and C8 levels were within normal limits. The patient was under the care of a chiropractor and from 12/03/01 through 06/19/02 underwent chiropractic treatments, nerve conduction velocity studies and dermatomal somatosensory evoked potential studies, and work hardening.

Requested Service(s)

Chiropractic treatments, nerve conduction velocity studies and dermatomal somatosensory evoked potential studies, and work hardening from 12/03/01 through 06/19/02.

Decision

It is determined that the chiropractic office visits with treatments provided from 12/03/01 through 02/18/02 and all of the work hardening program were medically necessary to treat this patient's condition. However, it is determined that the chiropractic office visits with treatments provided after 02/18/02 and the nerve conduction studies and dermatomal somatosensory evoked potential studies were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The patient's condition improved with respect to levels of self-reported pain up to 01/22/02. No further improvements in self-reported pain were noted after that date. An adequate trial of care is defined as a course of two weeks each of different types 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, 1992. The medical records indicated that the patient's self-reported pain levels dropped from an initial level of 08/10 noted on 12/10/01 to a level of 4/10 noted on 01/22/02. The progress notes from the next month demonstrated no change in the patient's condition. This would make the chiropractic office visits after 02/18/02 medically unnecessary. However, the medical record documentation supports the patient's chiropractic treatment up to 02/18/02. A review of the patient's range of motion assessments revealed improvements in cervical, shoulder, and lower back ranges of motion over the course of her treatment. The patient also improved in terms of static strength measurements over the course of the first two months of treatment.

The functional capacity evaluation (FCE) conducted on 03/07/02 revealed that the patient was functioning at the light physical demand level and her job required her to function at the medium physical demand level. A subsequent FCE done on 04/11/02 revealed that the patient was not fully meeting the requirements of the Medium physical demand level. Therefore, the work hardening program was medically necessary based on the FCE findings.

The nerve conduction velocity studies and dermatosensory evoked potential studies performed on 01/23/02 and 01/30/02 were not medically necessary. The studies were conducted in the chiropractor's office and there is no evidence to indicate that the doctor interpreting the results of the testing actually examined the patient or was in attendance for the testing. Thus, electrodiagnostic testing in which the neurologist interpreting the studies was not in attendance for the testing was not medically necessary.

According to the position statement of the American Academy of Electrodiagnostic Medicine, the electrodiagnostic medicine (EDX) consultation is an extension of the neurologic portion of the physical examination and requires detailed knowledge of the patient and his or her disease. Unlike many laboratory tests, EDX testing is not conducted in a standard fashion, but must be specifically

designed for each individual patient. In addition, it is often necessary to modify or add to the procedure during the examination depending on the findings as they unfold. Only in this way can appropriate data be collected and the proper conclusions drawn. Collection of the clinical and electrophysiologic data should be entirely under the supervision of the qualified physician EDX consultant. The consultant may collect all of the data directly from the patient or may delegate collection of some data to a specifically trained non-physician or physician in a residency-training program or fellowship.

In the case of nerve conduction studies (NCS) and somatosensory evoked potential (SEP) testing, the physician need not be present in the room when the procedure is performed but should be immediately available. Once the physician had determined the preliminary differential diagnosis on the basis of the patient's history and examination, a technologist may perform the NCS and SEP tests selected by the physician. The physician should be alerted immediately during the testing if any results appear to be unusual or unexpected, so that there is opportunity to reassess the differential diagnosis and develop alternative testing strategies. The patient should remain in the room until the supervising EDX consultant has reviewed the NCS and SEP results. As referenced in; "Technologists Conducting Nerve Conduction Studies and Somatosensory Evoked Potential Studies Independently to be Reviewed by a Physician at a Later Time", Position Statement, Muscle Nerve, 22:S8: 266, 1999.

The American Academy of Neurology's Therapeutics and Technology Assessment Subcommittee indicated that, at the present time there is no evidence that dermatomal somatosensory evoked potential (DSEP) finding provide any reliable information beyond routine clinical examination and there is no evidence to suggest that DSEP's are superior to already established neurophysiological techniques. It was their conclusion that the current evidence supporting the use of DSEPs is Type D (Negative recommendation based on inconclusive or conflicting Class II evidence. Class II evidence is provided by one or more clinical studies of a restricted population using a reference test in a blinded evaluation of diagnostic accuracy). As referenced in the American Academy of Neurology's Therapeutics and Technology Assessment Subcommittee, "Assessment: Dermatomal somatosensory evoked potentials", Neurology; 49:1127-1130, 1997. Therefore, the use of somatosensory evoked potentials in this case was not medically necessary.

Therefore, it is determined that the chiropractic office visits with treatments provided from 12/03/01 through 02/18/02 and all of the work hardening program were medically necessary to treat this patient's condition. However, it is determined that the chiropractic office visits with treatments provided after 02/18/02 and the nerve conduction studies and dermatomal somatosensory evoked potential studies were not medically necessary to treat this patient's condition.

Sincerely,