

MDR Tracking Number: M5-03-1071-01

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 amount due for the services found medically necessary exceed the amount due for the service found not medically necessary. Therefore, 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 office visits with manipulations from 5/31/02 through 6/24/02, ultrasound and myofascial release from 6/5/02 through 7/1/02, therapeutic exercises from 6/5/02 through 8/16/02, aquatic therapy on 6/11/02, 6/25/02, 7/2/02, 7/11/02, 7/16/02, 7/23/02, 7/30/02, 8/8/02 and 8/15/02, group therapy on 7/2/02, 7/25/02, 7/18/02, 7/25/02 and 8/14/02 and range of motion assessment on 8/6/02 were found to be medically necessary. Manipulations on 3/4/02, 3/11/02, 3/18/02, 3/22/02 and all manipulations after 6/24/02 and ultrasound and myofascial release after 7/1/02 were found not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 15th day of April 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

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 3/4/02 through 8/16/02 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 15th day of April 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

April 10, 2003

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

RE: MDR Tracking #: M5-03-1071-01
IRO Certificate #: IRO 4326

The ___ 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 patient sustained a work-related injury on ___ when he was pulling a rack and twisted his body, resulting in lower back pain. An MRI performed on 10/16/00 revealed multifactorial left L4-5 foraminal stenosis. After evaluation, the patient was diagnosed with acquired spondylolisthesis, degeneration of lumbar or lumbosacral intervertebral disc, spinal stenosis of the lumbar region, and myalgia and myositis. The patient was under the care of a chiropractor and underwent office visits with manipulations, physical therapy, and range of motion from 03/04/02 through 08/16/02.

Requested Service(s)

Office visits with manipulations, physical therapy, and range of motion from 03/04/02 through 08/16/02.

Decision

It is determined that the following treatments were medically necessary to treat this patient's condition:

- The use of manipulation from 05/31/02 through 06/24/02.

- The use of ultrasound and myofascial release from 06/05/02 through 07/01/02.
- The use of therapeutic exercises from 06/05/02 through 08/16/02.
- The use of aquatic therapy on 06/11/02, 06/25/02, 07/02/02, 07/11/02, 07/16/02, 07/23/02, 07/30/02, 08/08/02 and 08/15/02.
- The use of group therapy on 07/02/02, 07/15/02, 07/18/02, 07/25/02, and 08/14/02.
- The range of motion assessment performed on 08/06/02.

It is determined that the following treatments were not medically necessary to treat this patient's condition.

- The use of manipulation on 03/04/02, 03/11/02, 03/18/02 and 03/22/02, in addition to all manipulation after 06/24/02.
- The use of ultrasound and myofascial release after 07/01/02.

Rationale/Basis for Decision

The patient was injured on ___ and began a course of chiropractic treatment. The patient had a lumbar MRI on 10/16/00 that demonstrated left L4-5 neural foraminal stenosis. He was evaluated on 12/18/00 and surgery was recommended. The patient underwent a lumbar epidural steroid injection on 01/15/01 for severe low back pain secondary to spondylolisthesis and spinal stenosis. The patient was then placed in a work hardening program in February and March 2001 and a functional capacity evaluation dated 02/06/01 revealed the patient was functioning at the sedentary physical demand level and his job required light-medium physical demand level. Follow-up notes dated 02/23/01 revealed that the patient had another epidural steroid injection. The patient was evaluated and surgery was also recommended.

The patient underwent a designated doctor evaluation on 03/21/01 and a 12% permanent impairment rating was assigned. A functional evaluation revealed the patient was functioning at the medium physical demand level, which was above his job requirement. The patient underwent lumbar fusion surgery on 07/24/01. The patient was sent for 4 weeks of post-operative physical therapy and the notes dated 09/19/01 indicated that the patient was to start with aquatic therapy. Electrodiagnostic studies dated 12/06/01 revealed evidence of a left L5 radiculopathy. The patient underwent a chronic pain management evaluation on 12/10/01. A repeat MRI was performed on 12/28/01 and the study revealed the patient was status-post bilateral laminectomies and pedicle screw placement of the L4 and L5 with epidural fibrosis present in the epidural space at the laminectomy levels.

The patient underwent another lumbar epidural steroid injection on 01/18/02 and was placed in a chronic pain management program from January through March of 2002. The patient underwent a second lumbar surgery on 04/23/02, which consisted of a left hemilaminectomy at L5-S1, medial facetectomy, and foraminotomy.

The patient was treated prior to his second lumbar surgery with manipulation on 03/04/02, 03/11/02, 03/18/02 and 03/22/02. The treatments were not medically necessary for the treatment of the patient's injury. The patient resumed chiropractic treatment on 05/31/02 and was treated with manipulation on 05/31/02. He was treated with manipulation, ultrasound, myofascial release, and two units of therapeutic exercises on 06/05/02, 06/07/02, 06/14/02, 06/15/02, 06/17/02, 06/20/02, 07/01/02, 07/05/02, 07/08/02, 07/12/02, 07/15/02, 07/19/02, 07/22/02, 07/26/02, 07/29/02, 08/02/02, 08/05/02, 08/12/02 and 08/16/02.

The use of manipulation was medically necessary for the treatment of the patient from 05/31/02 through 06/24/02. The use of manipulation in the treatment of the patient after 06/24/02 was not medically necessary as no appreciable benefits were noted from the procedure. An adequate trial

of care is identified as a course of two week each of different typed 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 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 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.

The use of ultrasound and myofascial release was medically necessary from 06/05/02 through 07/01/02 but the use of these passive physical therapies was not medically necessary after 07/01/02. 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.

The Agency for Health Care Policy and Research: Clinical Practice Guideline Number 14, "Acute Low Back Problems In Adults" indicates that "the use of physical agents and modalities in the treatment of acute low back problems is of insufficiently proven benefit to justify its cost". They did note that some patients with acute low back problems appear to have temporary symptomatic relief with physical agents and modalities. Therefore, the use of passive physical therapy modalities (hot/cold packs, electrical stimulation) is not indicated after the first 2-3 weeks of care.

The use of therapeutic exercises in the treatment of the patient was medically necessary from 06/05/02 through 08/16/02. Haldeman et al indicate that it is beneficial to proceed to the rehabilitation phase of care as rapidly as possible to minimize dependence on passive forms of treatment/care and reaching the rehabilitation phase as rapidly as possible and minimizing dependence on passive treatment usually leads to the optimum result. Reference: Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993.

The use of aquatic therapy on 06/11/02, 06/25/02, 07/02/02, 07/11/02, 07/23/02, 07/30/02, 08/08/02, 08/15/02 was medically necessary in the post-surgical rehabilitation of the patient. Konlian indicated that aquatic therapy is a viable rehabilitation alternative for the treatment of spinal pain and dysfunction. The unique physical properties of the water make it an ideal medium for the rehabilitation of low back injuries. Aquatic programs can be used in conjunction with a land-based program or as a sole treatment approach. Orthopedic specialists should consider aquatic rehabilitation in management of spinal injuries to enhance the injured patient's overall functional outcomes. Konlian C., "Aquatic therapy: making a wave in the treatment of low back injuries", Orthopedic Nursing 1999 Jan-Feb:18(1):11-8.

The use of group therapy on 07/02/02, 07/15/02, 07/18/02, 07/25/02 and 08/14/02 was medically necessary for treatment of the patient's injury.

The range of motion assessment performed on 08/06/02 was medically necessary for treatment of the patient's injury.

Therefore, the following treatments were medically necessary to treat this patient's condition:

- The use of manipulation from 05/31/02 through 06/24/02.
- The use of ultrasound and myofascial release from 06/05/02 through 07/01/02.
- The use of therapeutic exercises from 06/05/02 through 08/16/02.
- The use of aquatic therapy on 06/11/02, 06/25/02, 07/02/02, 07/11/02, 07/16/02, 07/23/02, 07/30/02, 08/08/02 and 08/15/02.
- The use of group therapy on 07/02/02, 07/15/02, 07/18/02, 07/25/02, and 08/14/02.
- The range of motion assessment performed on 08/06/02.

Therefore, the following treatments were not medically necessary to treat this patient's condition.

- The use of manipulation on 03/04/02, 03/11/02, 03/18/02 and 03/22/02, in addition to all manipulation after 06/24/02.
- The use of ultrasound and myofascial release after 07/01/02.

Sincerely,