MDR Tracking Number: M5-03-1484-01

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, 2003 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 to the requestor for the disputed services found medically necessary do not exceed the amount for those services found 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 hereby **Declines to Order** the respondent to refund the requestor 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 disputed chiropractic treatment and services from 3/29/02 through 4/15/02 were found to be medically necessary. The disputed chiropractic treatment and services from 4/18/02 through 5/16/02 were found not medically necessary. The respondent raised no other reasons for denying reimbursement.

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 3/29/02 through 4/15/02.

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 14th day of April 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 10, 2003

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

___ 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

It appears the claimant suffered alleged low back injury while lifting and carrying a 45 pound box of food material out of a freezer. She apparently and reportedly twisted to the left and heard a pop in her low back. She reportedly had immediate pain and had to go home. She tried to return to work and manage the pain on her own; however, ended up consulting with the chripractor for chiropractic care on or about ___. The claimant was subsequently released in August 2001 and returned to work without restrictions. The claimant has been found to be at maximum medical improvement by at least 2 or 3 physicians. She had undergone periodic as needed chiropractic care; however, suffered an aggravation of her low back condition at the end of March 2002 after moving heavy tables repeatedly in an effort to mop and sweep underneath the tables. Beginning on or about 3/29/02, the claimant has undergone various office visits of the 99214 through 99212 type. She has also undergone therapeutic procedures and phonophoresis procedures. She has also undergone massage, therapeutic exercise and, on at least one occasion, ultrasound was administered. The claimant has also undergone group therapeutic exercises. Of course not all of these services that were just mentioned were accomplished on every visit; however, the claimant underwent about 14 visits of chiropractic related physical therapy from 3/29/02 through 5/16/02. The claimant's initial pain levels upon presentation to the chiropractor for her aggravation on 3/29/02 were about a 3/10 pain level. The claimant's pain levels remained a 2-3/10 throughout most of the treatment through 5/16/02. There was one occasion on 4/22/02 in which the claimant's pain levels were noted to be a 5/10. However, from 5/1/02 onward the claimant's pain levels were rated a 2/10. The objective findings remained essentially the same throughout the documentation.

Requested Service(s)

Outpatient services rendered from 3/29/02 through 5/16/02.

Decision

I agree with the insurance carrier that all chiropractic services and office visits that were billed and administered from and including 4/18/02 onward were not supported as reasonable or medically necessary. I disagree with the insurance carrier and find that all services rendered from 3/29/02 through and including the 4/15/02 services were reasonable and medically necessary.

Rationale/Basis for Decision

The claimant was documented to have sustained a documented aggravation of her low back condition from moving cafeteria tables for several days during the end of March 2002. The claimant's Oswestry Disability Questionnaire revealed her to have a very minimal disability when she was released from her original injury back in ___. However, her Oswestry scores as of 3/29/02 had increased to a severe perceived disability. The claimant had objective evidence of mild over strain myofascial type injury. For this reason, about 6 visits of care would have been considered reasonable and medically necessary for treatment of this mild aggravation. The documentation and billing revealed there was a one week lapse in treatment from 4/8/02 through 4/15/02 and again from 4/22/02 through 5/1/02. The latest lapse from 4/22/02 through 5/1/02 does not really make sense because there were periods whereby the frequency of care before and after this lapse was increased. This particularly does not make sense because the claimant's pain levels were actually at the highest as of 4/22/02 and there was no follow up after the 4/22/02 visit until 9 days later on 5/1/02. Please also consider that the claimant's initial pain levels and physical findings were very minimal as of the initial visit of 3/29/02. She also missed no work as a result of this apparently mild aggravation and the documentation revealed the claimant's pain levels remained very low despite 2 lapses in care that were each at least one week long. The costs of the treatment that was billed for this mild aggravation would also be deemed to not be cost effective. It is also my opinion that, due to the mild nature of the aggravation as documented, this claimant who is obese, has diabetes, and is 50 years of age could have managed her condition via a home based exercise program, home stretching and routine use of ice or heat at home. This could have been done after the first 6 visits of physician directed treatment through 4/15/02. Also, the evidence based Official Disability Guidelines 2003 issue recommends 6 visits as a trial of chiropractic care to assess for the claimant's response and in order to determine if further treatment is necessary based on a positive response. The claimant's response to treatment was relatively minimal especially since her initial subjective complaints and objective findings were rather minimal. Please also consider that the chiropractic notes, while being very comprehensive, were extremely repetitive, fairly cookie cutter in fashion in scope and did not change over time to reflect objective progression.

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 TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 10th day of April 2003.