

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that office visits and physical therapy were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that office visit and physical therapy fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 8/12/02 to 10/9/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 24th day of April 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 16, 2003

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

RE: MDR Tracking #: M5-03-1565-01
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 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 was the driver of a vehicle that was stopped at a red light that was rear-ended by another vehicle on _____. The claimant was 53 years of age at the time of the injury. He had a history of a prior neck and low back injury back in _____. His main complaints upon presentation to a chiropractor on the date of injury, were neck pain, low back pain and right knee pain. The usual chiropractic care ensued. Multiple MRI evaluations and CT scans were reviewed in preparation of this report. The claimant has seen the doctor for epidural steroid injections at the cervical and lumbar spine. The claimant has also seen a doctor who has recommended cervical spine surgery. The file has been reviewed by an orthopedic peer reviewer twice in 2002. The claimant reportedly had some kind of exacerbation with no apparent cause except for perhaps driving in early May 2002. The claimant complained of cervical, thoracic and lumbar pain along with numbness and tingling in the right hand in the last 3 fingers while driving. Again, this is according to the documentation regarding the May 2002 exacerbation. Treatment for the exacerbation is the subject of this review. The services billed from 8/12/02 through 10/9/02 included office visits, electrical stimulation, massage, aquatics times 4 units, whirlpool on occasion, therapeutic exercises, ultrasound on occasion and various unlisted therapeutic procedure codes. Repeat MRI studies were reportedly approved, yet were not done because the claimant had increased heart pain that was supposedly due to the claimant having a heart stent, therefore, the MRI testing was stopped. The claimant underwent CT scan of the lumbar spine instead and this report is reviewed. On 9/16/02, the doctor felt the claimant's upper extremity problems were from his bilateral carpal tunnel syndrome and his low back signs and symptoms were due to L5 nerve root irritability and the biomechanical instability that was present at L5/S1 allegedly and reportedly due to a spondylolysis. Multiple range of motion studies from 1/13/99 through 10/15/02 on 7 separate occasions are reviewed. These revealed some increase in range of motion over time; however, the difference between the 1/13/99 studies and the 10/15/02 studies with respect to range of motion actually reflect very minimal change overall considering the amount of time between the 2 studies. Lower extremity electrodiagnostic studies revealed tarsal tunnel syndrome bilaterally which would not be injury related. There were multiple mononeuropathies noted. There was alleged L4 sensory radiculopathy on the left and S1 sensory radiculopathy on the right as reported on DSEP studies. The American Association of Electrodiagnostic Medicine does not consider DSEP studies to be conclusive in diagnosing the presence of radiculopathy. The upper extremity electrodiagnostic studies revealed carpal tunnel syndrome bilaterally and this, of course, would not be injury related. There was also bilateral "damage to the C8 and T1 nerve roots". Multiple Oswestry low back disability and neck disability questionnaires over time from approximately 1/4/01 through 10/15/02 were reviewed. These reflect that there was absolutely no change in the claimant's self perceived perception of disability over time during this time period. Please consider that the claimant's Oswestry scores for his low back were 64%, which would place him in a crippled disability category on 1/4/01. This same testing on 10/15/02 revealed the exact same score of 64%. The claimant's neck disability index score of 1/4/01 was 58%, which would place him in the high/severe self perceived disability and the neck disability index score of 10/15/02 revealed a 64% rating, which would actually be an increase in his self perceived disability. The CT scan of the low back of 10/9/02 is reviewed. The claimant was noted to have some lateral recess narrowing at L5/S1 that was due to spur formation at the facet joints. This also would not be a non-injury related finding. The claimant also had some congenital lumbar spine canal narrowing which would have also pre-existed the injury. It should be noted that the disc protrusions in the cervical and lumbar spine were accompanied by rather advanced degenerative changes. A January 2003 follow up with the doctor was reviewed and he recommended fusion at the L4 through S1 levels because this was a long term problem and he felt nothing else was likely to help the claimant at this point. Multiple daily chiropractic notes from 8/12/02 onward were reviewed. The claimant was returned to work without restrictions on 7/30/02; however, in the context of the documentation which seemed to show non-progression of the claimant's condition, this would really make no sense. Another doctor note of 8/19/99 revealed the claimant had undergone chiropractic care over the last 7 months that provided no benefit. The claimant was

documented to have high cholesterol and diabetes. In my opinion the claimant did have pretty decent clinical and diagnostic evidence of right sided C7 radiculopathy and right sided S1 radiculopathy; however, this was obviously not progressed or helped via the chiropractic care. A 1/7/01 note from a doctor revealed the claimant had sustained no improvement via conservative care to date. It should be noted that early on in the documentation many doctors felt the claimant was a surgical candidate with respect to the cervical spine.

Requested Service(s)

The medical necessity of the outpatient services rendered from 8/12/02 through 10/9/02 including the chiropractic care, physical therapy and office visits.

Decision

I agree with the insurance carrier that the chiropractic services rendered from 8/12/02 through 10/9/02 were not reasonable or medically necessary.

Rationale/Basis for Decision

It was very obvious in the documentation that the claimant underwent voluminous amounts of chiropractic care for treatment of the listed diagnoses that were considered way beyond the recommendations of every available consensus based and evidence based guideline available at my disposal. The TWCC Treatment Guidelines which were used as a rationale by the doctor's office were inappropriately used in that the ground rules of the guidelines state that satisfactory progression in the claimant's condition must first occur before extensive care is rendered. This obviously did not take place and the claimant's condition did not progress via the chiropractic care. Multiple medical providers including three different doctors, stated that conservative care had not progressed the claimant's condition. This was also revealed in one of the doctor's reports. On 2 occasions, a peer reviewer felt that the amount of chiropractic care the claimant had received to date was unconscionable. On 9/16/02, the doctor felt the claimant's upper extremity complaints were due to the non-injury related bilateral carpal tunnel syndrome, and the L5 nerve root irritability and non-injury related L5/S1 biomechanical instability was accounting for the claimant's lumbar and lower extremity problems. Regardless of what the 3 phases of treatment are, as outlined in the TWCC Guidelines, and regardless of what the Texas Labor Code states, it is not appropriate to keep treating a claimant with inappropriate care when he or she is not progressing. The TWCC Guidelines, even though they are outdated, are useless unless the ground rules in the beginning of the TWCC Guidelines are met. The ground rules were not met in this case and the amount of chiropractic care has been extensive in this case in general and especially for the alleged exacerbation in May 2002. The DSEP studies from the lower extremity electrodiagnostic testing showed the alleged presence of left L4 sensory radiculopathy and right S1 sensory radiculopathy. DSEP studies are considered investigational at best and should not be considered legitimate when evaluating for lumbar radiculopathy alone. The claimant's cervical, lumbar, shoulder and knee range of motion values were analyzed on about 7 separate occasions from 1/13/99 through 10/15/02 and the increases over time were extremely minimal considering the voluminous amounts of care, and did not support or validate the extensive care rendered. The claimant's Oswestry scores revealed very little change from 1/4/01 through 10/15/02. Please see the body of the report in the "Brief Clinical History" above for additional information regarding the Oswestry scores. In fact, the claimant's self perceived disability remained in the high/severe to crippled self perceived disability category over time. Also please consider that the rationale for treatment provided by the chiropractic office for the 8/12/02 through the 10/9/02 services was that the claimant had a non-injury related exacerbation in early May 2002. The exacerbation was

reportedly from driving a vehicle and other normal non-eventful activities of daily living. The exacerbation did not stem from a specific traumatic event. Exacerbations, as opposed to aggravations which are time and event based phenomenons, require very little physician directed care. In fact, exacerbations usually resolve within 72 hours to a week. The documentation revealed the claimant received about 5 months of treatment for this non-traumatic exacerbation at an extremely high cost. This is not reasonable or medically necessary and does not meet the ground rules of the TWCC Guidelines, which ___likes to use to justify his treatment. A majority of the treatment was aimed at non-injury related problems that included pre-existing degenerative changes and congenital spinal canal narrowing.

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 16 th day of April 2003.
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