MDR Tracking Number: M5-03-2012-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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. This dispute was received on 4-14-03.

The IRO reviewed office visits, office visits w/manipulations, muscle testing, physical therapy exercise, manual traction, myofascial release, joint mobilization, range of motion, physical performance testing, required report, NCVs (technical component), somatosensory testing (technical component), and H/F reflex study (technical component) from 7-18-02 through 10-10-02.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 6-24-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor’s receipt of the Notice. On 6-1-04, the requestor submitted an updated table to reflect payments received since the date the dispute was received in MDR.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$ (Max. Allowable Reimbursement)	Reference	Rationale
7-19-02	99213MP	$48.00	$0.00	NA	$48.00	Rule 133.307(g)(3)(A-F)	Respondent's check # 1216231 dated 8-20-02 was not issued to this requestor; it was issued to ___. Therefore, this review will be per the 1996 MFG. Relevant information supports delivery of service. Recommend reimbursement of $48.00.
8-13-02	97250	$43.00	$43.00	NA	$43.00		$616.45 paid by check #1257038 dated 11-7-02, which included the MAR for this code per EOB dated 4-2-03.
8-13-02	95851	$36.00	$0.00	G	$36.00	Rule 133.307(g)(3)(A-F)	ROM is not a global service per the 1996 MFG. Relevant information supports delivery of service; therefore, recommend reimbursement of $36.00.
8-8-02	97750	$430.00	$0.00	N	$43.00 ea 15 min	Rule 133.307(g)(3)(A-F)	Relevant information is incomplete and/or missing. Front page of Physical Performance Evaluation is dated 8-8-02. Five pages of report are in

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$ (Max. Allowable Reimbursement)	Reference	Rationale
							Spanish, not signed by claimant and not dated. The Standing Work Tolerance Report is dated 8-8-91. Scoring the Modified Zung Index is not dated and Scoring the Modified Somatic Perception Questionnaire is not dated or scored and does not have claimant's name. Therefore, documentation criteria have not been met and reimbursement cannot be recommended.
TOTAL							The requestor is entitled to reimbursement of $84.00.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 for dates of service 7-19-02 through 8-13-02 in this dispute.

This Order is hereby issued this 1st day of June 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

June 16, 2003

MDR Tracking Number: M5-03-2012-01
IRO Certificate # 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is

determined by the application of medical screening criteria published by ___, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL OVERVIEW:

Based on materials provided for review, it appears that this patient reports an injury to her back as a result of lifting 40# box at her place of work on ___. No employer's first report (E-1) is provided for review. The patient appears to have presented initially to ___ where she received x-rays and medications. No reports or notes from this provider are provided for review. The patient is then seen on or before 07/12/02 by a chiropractor, ___. No initial report of this evaluation is provided for review. The patient appears to be referred to a ___ (specialty unknown) on 07/17/02. No review of previous x-rays or medical reports appears to be made. SLR tests are positive at 45 degrees to the right. The patient is diagnosed with lumbar sprain/strain and lumbar herniated disc. The patient is given medications, orders for MRI, and asked to continue therapy modalities and treatment with chiropractor. Reports from chiropractor, ___, appear to be first submitted on 07/19/02 and are unsigned and clearly computer generated. One undated report notes in "History of Present Illness" the same paragraph appears duplicated 3+ times. No review of previous x-rays or medical reports appears to be made. ___ provides a diagnosis of lumbar sprain and dysfunction only. The patient appears to be referred for ST and EMG/NCV as well as follow-up with MD for 2nd opinion. Treatment is assigned at 5x per week for 2 weeks then 4x per week for 6 weeks with active and passive therapy and exercise. X-rays performed on 07/17/02 suggest degenerative lumbar spine disease and evidence of previous surgery. CT performed on 08/10/02 is found with some disc bulging and protrusion at L4-S1 without stenosis or evidence of nerve root impingement. Medical follow-up appears to be made with ___ on 08/09/02 with report suggesting lumbar strain with radiculitis. ___ suggests that the patient is experiencing depression. CT is reviewed and is misidentified as an MRI. Diagnosis is modified to suggest only lumbar strain with radiculitis. Medications appear to be modified and therapy and physical rehab is continued.

Patient is seen by a pain specialist ___, on 08/19/02. No neurological or vascular deficits are noted. No clinical evidence or radiculopathy is found. Patient is diagnosed with displaced lumbar disc with trigger points. Additional medications and orders for conservative care are provided. TP injections are suggested as a possible alternative. There is a Sensory Nerve Conduction Threshold Calculations Sheet dated 07/23/02 with no technician or physician interpretation identified. There is an electrodiagnostic report submitted on 10/08/02 suggesting NCV/SSEP findings all within normal limits. Chiropractic notes dated 07/19/02 through 10/10/02 suggest that the patient is experiencing pain in the lower back and coccyx that radiates on the right side

only. As of 07/23/02, doctor's notes indicate a pain index scale of 8, then in the same paragraph note a pain scale number of 6. This duel reporting of pain level is repeated throughout reporting with no explanation.

There appear to be multiple Functional Abilities Evaluation sheets suggesting muscle strength measurements and ROM measurements without specific clinical correlation by doctor or technician. There are multiple "Client Information" sheets submitted with printed treatment dates marked out and then re-written by hand and initialed, apparently by ___. There are also multiple Temperature Gradient Study Sheets submitted with some indiscernible hand written notes. No clinical indications or correlation of findings are submitted for review. A number of Physical Performance Evaluation forms are provided beginning 08/08/02 with no specific comments, notes, or clinical correlations noted. Several of these are undated and one indicates that it was performed 08/08/91. No physician or technician appears to be identified and initials or signatures appear unreadable. In addition, no discussion of these findings appears to be made in corresponding doctor's treatment notes for this date of service. As of 08/23/02, doctor's notes suggest that the patient's pain is sharp, constant, and getting worse. In the assessment portion of the same report the doctor notes that the patient is feeling better. Active and passive modalities are continued at 5x per week, the 4x per week for an additional six weeks. As 0f 09/13/02 pain is still stated to be getting worse. Care is continued at 3x per week for four weeks and anticipated release date is changed to 10/30/02 without explanation of complication, exacerbation, or re-injury. Subsequent notes appear identical as far as frequency of care, pain levels and objective findings through 10/10/02 when new anticipated release date is changed to 11/30/02, again with no explanation. Passive modalities including myofascial release, joint mobilization, and manual traction appear to be provided concurrently with 4 units of therapeutic exercise. No mention is made as to what these specific activities are and what specific functional goals are made. No RME or Designated Doctor evaluation appears to be made. No additional follow-up medical evaluations are submitted.

SUMMARY OF ISSUES:

Medical Necessity & Appropriateness of Treatment (Items in Dispute)

-Office visits (99213) 07/18/02-10/10/02: The 99213 E/M service performed by doctors of chiropractic in the Texas Worker's Compensation System generally includes a physical evaluation component as well as a management component which includes manipulation or mobilization unless otherwise distinguished. On multiple treatment sessions from 07/18/02 through 10/10/02, thechiropractor provided manipulation (adjustments), mobilization (97265), myofascial release (97250) and manual traction (97122) to the same area effecting the same tissues and structures. No appropriate modifier is used to distinguish these similar manual therapies from the primary procedure performed as the management component of service. This appears to be a duplication of same or similar services and is not supported by clinical rationale for conditions described. I can see no appropriate medical necessityfor the combination of these services as provided.

-995900-27, 95925-27 & 95935 Neurodiagnostic Services (technical component). This service appears to have been billed on 10/08/02 and appears to correspond to services provided by ___ and ___. There is no DOP regarding nature of technical component provided by ___and no technician is identified in documentation. Medical necessity for this service is not supported.
Physical Performance Test (97750-MT) billed on 07/18/02 appears to correspond to Physical Performance Evaluations performed and identified on multiple dates. There are no corresponding

notes, comments or clinical correlations made regarding these services made in doctors notes concerning treatment or diagnostic modifications from this data. These do not appear to meet criteria for functional capacity evaluations. Medical necessity for this service is no supported.

-Unusual Physician Travel (99082) billed on multiple dates of service has no corresponding DOP or other supporting explanation available in documentation on corresponding dates provided. Medical necessity for this service is not supported.
-Analysis of Data (99090) appears to be billed on multiple occasions and has no corresponding explanation, rationale or documented purpose in notes of corresponding dates of service. Medical necessity for this service is not supported.
-Range of Motion Measurements (95851) billed on multiple occasions does not appear to directly correspond to documentation submitted. Some DOP relating to ROM services appear to have dates scratched out and then re-written by hand without explanation. In addition, ROM evaluations are generally considered part of the doctor's initial examination and subsequent reexaminations unless specific measurements are necessitated by clinical rationale or other functional indications outlined in doctor's notes. In addition, no specific clinical correlation is provided regarding diagnostic interpretation or treatment modification. Medical necessity for this service is not supported.
-Temperature Gradient Studies (93740) provided on multiple occasions suggest no specific clinical utility and have no specific clinical rationale or corresponding treatment or diagnostic modification in doctor's notes on dates of service provided.
-Therapeutic Activities (97530) billed on multiple occasions, requires direct on-to-one patient contact by provider and generally requires a specific outline of activities with specific goals, modifications, and response to treatment. Also, provided with this service is Therapeutic exercise (97110), which also requires DOP, suggesting measurable change through the application of clinical skills in and attempt to improve specific issues of function. No separate therapists notes are provided outlining who observed or supervised these activities or exactly which activities are provided for which functional deficit. Though some therapeutic exercise does appear generally appropriate, there is no explanation as to why home exercise and self care instruction is not provided within a reasonable period within the natural course of care. Medical necessity for level and duration of these services is not supported.

TREATMENT DURATION & SETTING:
With objective data confirming no specific radiculopathy or neuropathy other than degenerative changes observed in imaging, the working diagnosis appears to be uncomplicated mechanical and soft tissue sprain. The natural history for resolution of disorders of this nature (lumbar sprain/strain) rarely exceed eight (8) weeks duration without specific complication. No specific complicating factors are outlined in objective testing or doctor's notes (neuropathy, exacerbation, re-injury etc.). In addition, no review of initial medical reports or x-ray findings. With DOI established at ___, there appears to be little evidence supporting necessity and rationale for treatment at these levels beyond 09/16/02. Finally, there are many irregularities in chiropractic reporting that questions the necessity of level, frequency and duration of care provided.

There are also many inconsistencies in medical reporting, chiropractic reporting and advanced testing that questions the specific issues of medical necessity.

OTHER ADVISEMENT:
There is a great deal of relevant documentation not provided for review in this file. This missing documentation may have significant bearing on specific issues of medical necessity and

appropriateness of treatment. This missing documentation includes or may include:
Initial examination or other evaluations provided by ___, prior to ___.

Initial medical reports, findings, progress and recommendations from first provider ___
Findings from RME, Designated Doctor or other consulting providers

The observations and impressions noted regarding this case are strictly the opinions of this evaluator. This evaluation has been conducted only on the basis of the medical /chiropractic documentation provided. It is assumed that this data is true, correct and is the most recent documentation available to the IRO at the time of request. If more information becomes available at a later date, an additional service/report or reconsideration may be requested. Such information may or may not change the opinions rendered in this review. This review and its findings are based solely on submitted materials. No clinical assessment or physical examination has been made by this office or this physician advisor concerning the above-mentioned claimant. These opinions rendered do not constitute per se a recommendation for specific claims or administrative functions to be made or enforced.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

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 requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 17th day of June 2003.