MDR Tracking Number: M5-03-2113-01

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 for the services found medically necessary do not exceed the amount due for the 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, upon receipt of this Order and in accordance with §133.308(r)(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 outpatient services rendered between 6/19/02 and 7/31/02 were medically necessary with the exception of the evaluation and management codes billed during that period which were not medically necessary. The treatment from 8/1/02 through 10/24/02 was not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 18th day of June 2003.

Noel L. Beavers
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 6/19/02 through 10/24/02 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 18th day of June 2003.

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

NOTICE OF INDEPENDENT REVIEW DECISION

Date: June 6, 2003

RE: MDR Tracking #: M5-03-2113-01
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

According to the documentation supplied, the claimant was working on a ladder during the normal scope of his employment, when he fell off a 12-foot ladder and landed on his buttocks on ___. The claimant went to the emergency room where multiple plain film x-rays were performed. The claimant was diagnosed with a L2 fracture and was released with medications and physical therapy. The claimant reported to Dr. ___ on 05/08/2002 for evaluation. The claimant began passive chiropractic therapy. A follow-up bone scan revealed a healing fracture at L2. A MRI was performed on 05/20/2002 and revealed disc bulges at L2-3, L3-4 and at L5-S1. An electromyogram study was performed and revealed mild evidence of bilateral L4 and S1 nerve root irritation. A nerve conduction velocity revealed no abnormalities. The claimant underwent extensive passive and active chiropractic modalities including a work hardening program. The claimant was co-managed by multiple specialists. A functional capacity exam was performed on 08/22/2002, which revealed the claimant was unable to perform his normal job duties, so he went through a work hardening program. The patient continued active and passive until the daily notes ended on 02/28/2003.

Requested Service(s)

Please review and address the medical necessity of the outpatient services including chiropractic treatments rendered 06/19/2002 – 10/24/2002.

Decision

I disagree with the insurance company and agree with the treating doctor that the outpatient services rendered between 06/19/2002 – 07/31/2002 were medically necessary with the exception of the evaluation and management codes billed. I agree that a 99212-office visit one time a week was medically necessary (6/19/02, 6/24/02, 7/1/02, 7/10/02, 7/19/02, 7/24/02, and 7/31/02). I agree with the insurance company that the services rendered between 08/01/2002 – 10/24/2002 were not medically necessary. I also agree with the insurance carrier that office visit codes of 99213 were not medically necessary.

Rationale/Basis for Decision

The claimant sustained a L2 fracture as a result of his ___ work injury. The claimant first sought care at the emergency room. The emergency room doctor recommended physical therapy and medications. Since the therapy began on 05/08/2002, the fracture had not completely healed. Due to the claimant's pain, it would be necessary to utilize passive care only for the initial 4 weeks. After that time it would be appropriate to use passive therapy in addition to active care to facilitate the healing process. This should have been used for an additional 8 weeks. The documentation supplied supports the need for the doctor to evaluate the claimant one time a week. There was not enough documentation supplied supporting the need for a 99213 management code to be utilized 2 times a week, nor that the documentation supported the intensity of services necessary to bill 99213. If, at the end of the 12 weeks the claimant's pain had not resolved, it would have been time to integrate a work conditioning/hardening program to move the claimant back towards joining the workforce. There was no documentation supplied to support the ongoing need for active/passive care for this claimant. If the claimant continued to have pain beyond the work hardening program, then it would be necessary for a surgical consult or to consider pain management.