

MDR Tracking Number: M5-03-2168-01

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 **or 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 the disputed services 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 medical necessity was the only issue involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 5-2-02 through 12-12-02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 19<sup>th</sup> day of June 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division  
DZT/dzt

June 18, 2003

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

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IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Osteopathy board certified in Anesthesiology and Pain Management.

The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

#### CLINICAL HISTORY

\_\_\_ was injured while unfolding a tuck-a-way on his truck and felt pain in his lower back. An MRI was performed on \_\_\_ that demonstrated mild disc dehydration at L3/4, and lesser dehydration at L4/5 and L5/S1. No disc bulge or herniation was seen at any level, though there was a mild diffuse annular bulge at L3/4. The impression of the radiologist was that the MRI was “essentially negative for age.”

The patient then underwent EMG/NCV testing on 8/29/01 at the request of \_\_\_, by \_\_\_. \_\_\_ documents that the nerve conduction velocity test demonstrated a peripheral polyneuropathy that could be due to diabetes hypothyroidism, vitamin deficiency or significant alcohol use. The patient did have a history of diabetes. It also demonstrated “borderline evidence” of radiculopathy that \_\_\_ stated could be “due to the fact that he has had facet neurotomies which would cause denervation of lumbar paraspinal muscles.” Therefore, the EMG/NCV testing was not significantly or definitively positive for anything other than peripheral polyneuropathy.

\_\_\_ continued treatment with \_\_\_ from 5/2/02 through 12/2/02. He received multiple in-office lumbar paravertebral regional nerve blocks, none of which provided significant or long-lasting relief. He also received prescriptions for Lortab and Robaxin through 5/20/02, at which time the narcotic was weaned, with \_\_\_ documenting in the progress note that “we agree with part of the Peer Review that the patient does not have really good objective data to substantiate ongoing narcotic treatment.” He also stated that the patient had peripheral neuropathy, “but this is due to his diabetes.” After that, the patient was maintained on Trazodone, Robaxin and Naprosyn.

At right L3 \_\_\_ recommended a selective nerve root block, but he instead performed a right L4 nerve root block on 8/23/02. The patient’s pain diagram indicates worsening right leg pain thereafter, despite \_\_\_ assertion of improvement. Following that, the patient continued to document pain levels of 7 – 9/10, with increasingly more distal pain down the right leg, according to the pain diagrams.

\_\_\_ then started the patient on DRX treatment, which is essentially a spinal traction machine. Again, the interval examinations and pain diagrams indicate ongoing, unchanged pain. \_\_\_ recommended that the patient see \_\_\_ for a rhizotomy, based on the results of the selective nerve root injection previously performed. As of 12/12/02, there was no change in the patient’s pain complaint, minimal nonspecific exam findings, or pain level.

#### DISPUTED SERVICES

Under dispute is the medical necessity of nerve block injections, office visits, nervous system surgery, therapeutic activities, joint mobilization, hot or cold pack therapy and special reports provided from 5/2/02 through 12/12/02.

## DECISION

The reviewer agrees with the prior adverse determination.

### BASIS FOR THE DECISION

This patient clearly had no clinically significant pathology on the MRI of 10/4/00. Disc dehydration is not anything more than evidence of early degenerative disc disease, an ordinary disease of life. At most, the patient had a lumbosacral strain injury that would have resolved within no more than eight weeks following the injury, with or without treatment.

There is no objective evidence of any clinically significant pathology on either the MRI or the nerve conduction studies performed almost one year later by \_\_\_\_\_. \_\_\_\_\_ himself states that the nerve conduction studies demonstrated polyneuropathy, consistent with the patient's history of diabetes. \_\_\_\_\_ even agrees with that assessment in his note in May 2002. Regarding the EMG findings, they were described as "borderline," but \_\_\_\_\_ also stated that the fact that the patient had had facet neurectomies causing denervation of the lumbar paraspinal muscles could easily be the explanation for the borderline findings.

The patient underwent several "paravertebral regional nerve blocks," which appear to be nothing more than deep trigger-point injections performed at the L3 and L5 transverse processes. The reviewer is unaware of any scientific studies that demonstrate the efficacy of this procedure for this patient's clinical condition, nor any studies that would demonstrate a medical indication for performing such a procedure in the absence of objective evidence of clinically significant pathology or radiculopathy. Moreover, none of the injections performed provided any significant or long-lasting pain relief, as the patient's pain complaints continued unchanged, despite all the paravertebral blocks performed.

The reviewer also finds no medical necessity for the selective nerve root block that was performed by \_\_\_\_\_, as there was no clinical evidence whatsoever of disc herniation or nerve root compression to justify such a procedure. Regardless of the patient's objective complaints, it is not medically reasonable or necessary to perform invasive treatment to block nerve roots when there is no correlating evidence on imaging studies or, for that matter, electro diagnostic studies.

There was clearly no medical necessity for therapeutic activity, joint mobilization, or hot- or cold-pack therapy two years after a lumbosacral strain injury. These passive modality treatments are reasonable for only the first six or eight weeks following a lumbosacral strain injury, and have no justification for being performed some two years thereafter.

With regard to the DRX treatment, there are no peer-reviewed, scientific studies that demonstrate efficacy of this treatment. Moreover, to bill this treatment as "nervous system surgery" is, at the very least, a gross misrepresentation of what is actually being performed in the treatment. The DRX system is nothing more than a sophisticated spinal traction system. In no way can such a modality be described as "nervous system surgery," nor is it a standard-of-care or medically necessary treatment for a lumbosacral strain injury that occurred some two years ago.

Moreover, despite the multiple DRX treatments, the patient's pain level, pain diagram, and physical examination were completely and totally unchanged.

In fact, the only change in the patient's pain diagram occurred following the unnecessary L4 selective nerve root block that \_\_\_ performed on 8/23/02.

Therefore, the \_\_\_ reviewer finds no medical necessity, reason, or indication for any of the office visits or treatments performed from 5/2/02 through 12/12/02 by \_\_\_.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,