

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-0625.M5

MDR Tracking Number: M5-03-2470-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution – General 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 dispute was received on 6-5-03.

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, office visits w/manipulations, special reports, physical performance tests, range of motion, data analysis, and physical therapy treatments/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 to be resolved. As the office visits, office visits w/manipulations, special reports, physical performance tests, range of motion, data analysis, and physical therapy treatments/services were not found to be medically necessary, reimbursement for dates of service from 9-6-02 through 4-8-03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 21st day of August 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

August 12, 2003

Re: IRO Case # M5-03-2470-01

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed by the State of Texas. He or she has signed a certification statement attesting 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 referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient injured her neck, head and lower back on ___ when she tripped over some buckets. She was treated at the ER. She received several months of physical therapy before beginning treatment with the treating chiropractor on 9/6/02.

Requested Service(s)

Office visits, special reports, physical performance test, range of motion, data analysis, office visits with manipulations, therapeutic procedure, kinetic activities 9/6/02-4/8/03

Decision

I agree with the carrier's decision to deny the requested treatment.

Rationale

The patient received extensive conservative treatment. She was evaluated with an MRI, CT, EMG/NCT, a psychological examination and other tests from several doctors. She received physical therapy and TPIs. She was placed at MMI on 6/10/02 after extensive physical therapy failed to relieve her symptoms. She had also been placed at MMI on 2/21/02, when it was noted that no "further treatment or diagnostic testing is indicated...She is medically stable." A report of a review of records on 9/27/02 by an orthopedic surgeon stated that the patient "does appear to have a history of previous injury or preexisting cervical degenerative disc and/or spondylosis condition," and that the patient's "care has far exceeded the expected healing/recovery time frames," and that the patient should be "released to a home treatment program of stretching and strengthening of the cervical spine."

After an MMI date is reached, all further treatment must be reasonable and effective in relieving symptoms or improving function. A typical or expected healing/recovery time frame of 0-8 weeks post MMI is usual for conservative treatment of an apparent soft tissue injury or complaint. The disputed treatment began over seven months post-injury and almost three months post MMI, and is therefore inconsistent with the usual timeframes.

In a 7/1/03 letter, the treating DC stated that his records had not been seriously considered and that a reviewing doctor had ignored the Labor Code. Review of the records submitted for this review, however, indicate that the disputed treatment failed to objectively measure or demonstrate functional gains, and was not provided in the most appropriate, least intensive setting. Treatment appears to have been over utilized or inappropriate, possibly causing doctor dependence.

The documentation provided does not show that the disputed treatment was effective. On 2/2/03 the patient's low back pain was rated at 9/10 with moderate spasms and edema. On 4/1/03 her low back pain was still 7/10 and her neck was "crackling with range of motion." These are subjective and objective symptoms that indicate that treatment was not effective.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,