

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 Medical Review Division has reviewed the IRO decision and determined that the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare; therefore, the **requestor did not prevail** in the IRO decision. 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.

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 office visits, spray and stretch, massage, and electrical stimulation (manual) on 7-8-02, 7-15-02, 7-22-02, and 7-31-02 were found to be medically necessary. The office visits, spray and stretch, massage, and electrical stimulation (manual) on 7-10-02 and 7-17-02 and the therapeutic procedures on 7-8-02 through 7-31-02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these services charges.

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 7-8-02 through 7-31-02 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 11th day of August 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

August 4, 2003

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

MDR Tracking #: M5-03-2635-01
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 Chiropractic. 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

On ___, ___ was lifting a 200-pound pipe from a rail by himself when he felt a pop and had immediate pain into his right neck and shoulder. He reported the injury to his supervisor and was taken to the company doctor. He was treated, released to light duty and began physical therapy. His condition worsened and he was taken off work. He was then referred for a neurosurgical consultation and MRI. He eventually underwent a cervical discectomy and fusion at C5-7 on March 4, 2002. The patient moved to Brownsville for family support and started post-surgical care with ___ on April 18, 2002. He underwent a second surgical procedure on August 8, 2002 and had the rest of his cervical spine fused. His neck is now fused from C3-T1.

DISPUTED SERVICES

Under dispute is the medical necessity of therapeutic exercises, office visits, spray and stretch, massage therapy and electrical stimulation provided from 7/8/02 through 7/31/02.

DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

Care was appropriate to include office visits, spray and stretch, massage and EMS, but at a frequency not to exceed one each per week.

The therapeutic exercises could have been done at home pending the surgery date of 8/8/02.

BASIS FOR THE DECISION

The reviewer finds it reasonable to assume that care initiated by ____, once the patient moved from ____ to ____, was for the purposes of providing post-surgical rehabilitation. The period from the date of surgery (3/8/02) to initiation of care (4/18/02) can be termed a period of convalescence.

The reviewer has no issue with ____ selection of “initial phase.” The reviewer does point out, however, something ____ left out of his description, and that was the duration of this phase of care that which was 0-8 weeks treatment duration.

With this in mind, care should have been either terminated or moved to “phase II.” Neither would have been appropriate, however, as by this time the patient was awaiting approval for his second surgery. At that point, care no longer has an achievable goal, but should remain both supportive pending the second surgery and palliative to maintain the patient’s present level of function and to prevent decompensation.

The next question would be the appropriate dosage, or frequency of care necessary and sufficient to maintain the patient’s current status, and of what duration. Duration is the minimum treatment/care interval to obtain a stable response.

After the initial eight weeks, the reviewer finds that continued care was medically necessary, pending surgery, just not at the rate it continued. From approximately 6/18/02 (eight weeks from initiation of care) to 8/8/02 (2nd surgery date) a palliative treatment frequency would be once per week in this case. Based on ____ documentation using the Oswestry outcome measure, this patient improved 3% from 6/25/02 to 7/30/02. This was hardly a significant increase to justify the same type of treatment, let alone the same frequency of intervention. The patient appears to have reached a clinical plateau and necessitated surgery to move through this. As a requisite for improvement, 3% is hardly substantive.

Therefore, based on the Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters, 1994, the reviewer finds that during the period of dispute 7/8/02 through 7/31/02, the care was appropriate to include office visits, spray and stretch, massage and EMS at a frequency not to exceed one per week. The therapeutic exercises could be done at home pending the surgery date of 8/8/02.

___ 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,