

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

SOAH DOCKET NO. 453-04-4179.M5

MDR Tracking Number: M5-03-2740-01

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, 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 6-30-03.

The IRO reviewed office visits w/manipulations, additional manipulations and physical therapy rendered from 8-19-02 through 12-02-02 that were denied as unnecessary medical.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, the requestor is not entitled to reimbursement of the 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 10-6-03, the Medical Review Division submitted a Notice to the 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.

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

DOS	CPT CODE	Billed\$	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
7-16-02 thru 7-31-02 8-1-02 thru 8-15-02	99213-MP 97261 97250 97014 97265	48.00x15 8.00x15 43.00x15 15.00x15 43.00x15	0.00	No EOB	48.00 8.00 43.00 15.00 43.00	96 MFG Med GR I A 10 a; I B 1 b and Rule 133.307(g)(3)	Relevant information was not submitted to support delivery of service. No reimbursement recommended.
TOTAL		\$2,355.00	0.00				The requestor is not entitled to reimbursement.

The above Findings and Decision are hereby issued this 27th day of January 2004.

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

January 27, 2003

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

AMENDED DECISION
Revising Disputed Services

Re: MDR #: M5-03-2740-01
IRO Certificate No.: IRO 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

Clinical History:

The claimant injured his back on the job on ____. He reported his injury and was seen by the company doctor who returned him to work. His problems continued so he sought chiropractic care. An evaluation was performed, he was taken off work, and an aggressive treatment program was begun. Over the course of treatment, the patient was referred for consultations and mediation. An RME was performed as well as Designated Doctor Evaluations.

The lumbar MRI report dated 06/21/02 revealed (1) there are mild degenerative changes at L4-L5 and L5-S1, (2) there is mild diffuse annular bulging at L5-S1 as well as a small disk herniation paracentral on the left with a potential for impingement upon the left S-1 nerve root, (3) mild annular bulging centrally and to the right at L4-L5 with mild posterior ridging with associated mild disk protrusion on the left but without evidence of definite neural impingement.

Electrodiagnostic testing dated 04/23/02 revealed that prolonged dermatosensory latency of bilateral L5-S1 was observed. This is suggestive of nerve root or sensory path dysfunction at bilateral L-5 and S-1 levels. Motor nerve conduction study of both lower extremities is within normal limits. Distal sensory latencies and F-waves are normal. In

addition, physical performance evaluation was performed as well as Oswestry low back pain disability questionnaires were completed.

Disputed Services:

Office visits with manipulations, additional manipulations and physical therapy for dates of service 08-19-02 through 12-02-02.

Decision:

The reviewer agrees with the determination of the insurance carrier in this case.

Rationale:

The record indicates this patient continued to receive office visits with manipulation, manipulation at area, myofascial release, and joint mobilization at a frequency of three times a week throughout the entire disputed time frame. The documentation provided for each date of service is insufficient to warrant continued treatment. This patient's subjective pain scale rating remained at a 5 on a scale from 1 to 10 from 07/16/02 through 07/25/02, at which time it dropped to 4 ½ to 4 through 08/12/02. This scale dropped to 3 for a few visits and then once again began to climb to 4, 4 ½, 5, 5 ½, 6, 6 ½, to 7 on 09/06/02. The pain scale stated at a 7 through 09/18/02. From 09/19/02, the pain scale increased to an 8. On 09/23/02, it dropped to 7 ½. Apparently, at this time the patient was prescribed a methylprednisolone dosepak. When the patient entered the office on 09/25/02, his pain scale was a 3, and this pain scale stayed at 3 through 10/21/02. It dropped to 1 on 10/22/02 and to 0 on 10/24/02. It remained at a 0 for the remainder of the patient's treatment program through 12/02/02.

Based upon this patient's subjective pain scale rating, it appears the treatment the patient was receiving had plateaued at 5 on a scale from 1 to 10, slowly improved to 3, then increased to an 8, until such time medication was prescribed. Once medication was introduced, the patient's pain scale dropped dramatically to a 3 maintained that level for about a month and then went to a 1, then down to 0.

National treatment guidelines allow for treatment of injuries of this nature utilizing chiropractic care and an initial phase of passive therapy. This phase normally lasts between two to eight weeks, after which time progression into an active rehabilitation program is allowed. Although the doctor in his notes stated the patient had engaged in an active rehabilitation exercise program throughout his course of care, there is no documentation either in the form of SOAP notes or billing records which verifies this statement. In addition, throughout the course of the disputed services, the patient's subjective pain level remained constant at 5, with only a brief period of improvement from a 4 to a 3, then significantly increased to an 8 prior to medication being administered. Once the medication was given, the patient's pain level significantly improved. This causes one to wonder why the medication was not tried sooner. Instead, the treating doctor chose to use chiropractic manipulation and passive therapies three times a week throughout the months of March, April, May, June, July, August, and up until 9/23/02. In addition, as of 10/24/02, the patient's pain scale was 0 for the remainder of his treatment. There are no national treatment guidelines that allow for four to six weeks of continued treatment, three times a week, of a patient whose pain scale is at 0.

In conclusion, the records indicate the patient did, in fact, have a mild disk bulge, a small disk herniation and mild degenerative disk changes. Electrodiagnostic studies revealed prolonged dermatosensory latency bilaterally at L5-S1. These findings do warrant treatment of this patient's injuries, but not at the magnitude that this patient received.

Therefore, all services rendered between 07/16/02 through 12/02/02 were not medically necessary.

I am the Secretary and General Counsel of ____ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.