MDR Tracking Number: M5-03-2917-01

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 July 11, 2003.

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 range of motion, physical therapy sessions, office visits, muscle testing, neuromuscular stimulator and MRI 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 fees were the only fees involved in the medical dispute to be resolved. As the range of motion, physical therapy sessions, office visits, muscle testing, neuromuscular stimulator and MRI was not found to be medically necessary, reimbursement for dates of service from 1/29/03 through 5/20/03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 9th day of September 2003.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

Date: September 5, 2003

RE: MDR Tracking # M5-03-2917-01
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 who has a temporary exemption. 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

It appears the claimant suffered alleged low back and abdominal pain after lifting a radiator which was described as weighing between 20-25 pounds during the normal course and scope of her employment as a night manager for a local auto parts store. The claimant reported some pain in her abdomen and she was about 5 weeks pregnant at the time of the injury. She also reported some vaginal bleeding; however, appeared to be cleared by her obstetrician/gynecologist. She reportedly had bleeding for about 3 days and an obstetrician/gynecologist peer reviewer stated bleeding in one out of four women in the first trimester of pregnancy is normal. It appears the claimant was due to give birth sometime in January 2003; however, I am not sure of the exact date of the child birth. At any rate, the claimant apparently underwent some chiropractic care and rehabilitation under the direction of ___ and was reportedly released back to work sometime in June or July of 2002. It appears some care was reinitiated in January 2003, after the claimant gave birth. A majority of her initial lifting restrictions earlier in treatment were due to pregnancy, not the injury per se. An MRI report of 4/11/03 revealed there to a be a 2-3mm right paracentral disc herniation at L5/S1 that was not causing any type of documented foraminal or spinal stenosis. It appears the claimant did receive voluntary certification for pre-authorization of physical therapy at 3 times per week for 4 weeks on 2/3/03 and ___ has submitted a letter of 8/11/03 providing a rationale for the services in dispute. Multiple daily chiropractic notes were reviewed through the disputed services which ranged from 1/29/03 through approximately 5/20/03.

Requested Service(s)

The medical necessity of the outpatient services to include range of motion studies, physical therapy sessions, office visits, muscle testing, neuromuscular stimulator unit, and lumbar MRI from 1/29/03 through 5/20/03.

Decision

I agree with the insurance carrier and find that the services in dispute were not reasonable or medically necessary.

Rationale/Basis for Decision

It was documented that the claimant was treated and released back to work as of June or July 2002. In fact, ___ stated on 6/12/02 that "The patient has recovered and no further care is anticipated." A case manager note also reveals that, on 7/8/02, it was documented that according to ___ the patient has recovered and no further care is anticipated". In fact it went on to say on 7/8/03 that all therapies were being geared to accommodate the patient's pregnancy. It appears the claimant was due to have a baby sometime in January 2003. Certainly, some low back pain and deconditioning could be associated with that event. ___ letter of 8/11/03 does not even mention the lapse in care due to the pregnancy and he does not explain why physical therapy and the other services that are in dispute were needed over 6 months after he released the claimant to go back to work. ___ then uses the lumbar MRI findings to justify his treatment when the MRI findings showed a noncompressive disc herniation at the L5/S1 level. There was also no clinical

evidence in the daily notes or the re-examinations from ___ to support that the claimant had signs or symptoms of lumbar radiculopathy. There was really no subjective evidence of lumbar radiculopathy in the documentation until conveniently after the MRI study was done. What I suspect occurred is that the claimant was told she had a right paracentral disc herniation at L5/S1 and she should probably have right sided leg symptoms and that is when she conveniently developed them, at least subjectively. Furthermore, in his letter of 8/11/03, ___ mentioned the claimant had decreased sensation in the L1, L4 and L5 dermatomes; however, there was no documentation of this in his daily notes or his subsequent re-evaluations. Given the L5/S1 noncompressive disc herniation, the claimant would not have had sensation losses in the L1, L4 or L5 levels. Sensation losses at 3 levels is a rare physiological event anyway, and not supported by the documentation. The side of the alleged sensation losses was not even specified. There were also lapses in treatment due to the fact that the claimant was having baby-sitting difficulties. It should also be noted that the healing response is a cumulative event and does take place in the absence of treatment. It is not reasonable to state that more treatment was needed after the claimant's pregnancy when the pregnancy itself and the subsequent loss of sleep and exhaustion following child birth would certainly be responsible for a majority, if not all, of the claimant's physical condition or lack thereof. It is simply not reasonable for the claimant to have been released to work as she was back in June or July of 2002 and then to resume treatment after 6 months more pregnancy time went by. ___ reportedly recommended injections of some sort during his 5/20/03 visit with the claimant; however, there was really not much mention of this in the chiropractic documentation and as of 6/9/03 the chiropractor suddenly felt the claimant was fine and released her back to work. The overall documentation is poor, does not really make sense, and does not really explain the lapses in treatment and the rationale for treatment. The disc herniation was not clinically significant as documented. The MRI findings did not change, enhance or alter the claimant's prognosis or treatment plan in any way. In fact, she was only seen a few times beyond this date and the treatment type, duration and frequency did not change as a result of the findings yet ___ has used the MRI report to justify his treatment. Treatment should never be based on diagnostic testing alone. It is important to treat the claimant's condition, not the diagnostic testing and a majority of her condition would be due to poor conditioning from her pregnancy and the effects of the pregnancy itself. The sprain/strain injury of the low back had likely healed a long time ago.