

MDR Tracking Number: M5-03-2956-01

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 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 July 14, 2003.

The IRO reviewed physical medicine services rendered from 9/13/02 through 10/16/02 denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On August 18, 2003, the Medical Review Division submitted a Notice to 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\$	Reference	Rationale
10/16/02	99080-73	\$15.00	\$0.00	L	\$15.00	Rule 129.5	Review of the commission's database revealed that a TWCC 53 was approved on 10/14/02 to change treating doctors from ___ to ___. ___ after the change of treating doctor, prepared the TWCC 73; therefore, the requestor is not entitled to reimbursement of the disputed charge.
TOTAL		\$15.00	\$0.00		\$15.00		The requestor is not entitled to reimbursement.

This Decision is hereby issued this 5th day of February 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

August 26, 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 Medical Doctor board certified and specialized in Physical Medicine and Rehabilitation. 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

___ is of Bosnian descent and apparently has a somewhat limited command of the English language. At the time of her accident she was approximately 35 years of age and working for ___ as a cashier. On 6/16/02 someone was working above her when tools or a toolbox fell and struck her on her back.

Evaluations and treatments ensued. The patient described pain in her lower back, left buttocks, and left lower extremity and had very poor response to treatments. Under the care of ___, physical medicine, a program of physical therapy was attempted.

Early on there were signs of extreme psychological non-physiologic responses, and thus a fairly early referral to pain management, again with no significant success. She was later dropped from ___ care.

This patient has basically normal imaging studies, normal x-rays and a normal MRI of the lumbar spine. ON 8/13/03 electrodiagnostic studies were attempted. She had incomplete nerve conduction studies due to reported poor tolerance/poor cooperation. And she refused the EMG portion. Her pain management positions noted on 8/22/02 that she would not “tolerate any type of exam due to pain,” yet the patient denied his suggestion/urging for admission for further work-up. An 8/29/02 MRI study of her pelvis and hips was also negative.

The incident happened to the patient in ___ and yet the physical therapy report of ___ three months later, included the following: her doctor had told her she could return to very light work and she “is not happy about that,” reporting that she “cannot work.” On examination curing strength testing she exhibited “exaggeration and cog-wheeling.” On palpation, “Patient exaggerates symptoms with mild palpation. When distracted, she is able to carry on a conversation without exaggerated symptoms.” And with her gait, she ambulated with “forward trunk flexion” and “maximal cues during gait.”

DISPUTED SERVICES

Under dispute is the medical necessity of physical medicine services provided from 9/13/02 through 10/16/02.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

All of the above yield very strong suspicion that this patient (who was exhibiting essentially zero progress and showing overwhelmingly non-physiologic behavior in the face of very little evidence of organic injury residual after three months) may well have been participating in some cognitive misrepresentation of the truth concerning her on-the-job injury and pain.

It would appear very strongly evident at this point that any further passive or active clinical physical therapy attempts in this patient would have been futile. At that point in time, she should have very likely been directed to a home exercise program only. With these providers having seen her behavior and very negative/zero responses to treatment, further attempts at physical therapy do not appear justified nor indicated by 9/13/02.

Furthermore, it then appears that very shortly after her treating physician released her to sedentary duty, she dropped him and switched to a chiropractor for treating physician. At about that same time (9/19) she was also “separated” from ___. The next physician wrote repetitive and ongoing “off work” TWCC 73 status reports until at least April of 2003.

Under their care she had even more ongoing passive treatment modalities beyond the end of year 2002, with very little meaningful benefit documented in the records.

___ 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,