

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 21, 2003.

The IRO reviewed office visits, myofascial release, special report, hot or cold packs, electrical stimulation, electrodes and ultrasound therapy rendered from 7/30/02 through 3/5/03 denied based on upon "U & V".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The office visits, special reports dated (7/30/02), myofascial release, heat/cold packs, electrical muscle stimulation and ultrasound through 9/30/02 were found to be medically necessary. The office visit/trigger point injection and 1-week trial period of outpatient therapy following the injection date, 2/8/03, was found to be medically necessary.

The office visits, special reports (dated 8/6/02, 9/11/02, 9/18/02, 11/4/02 and 12/4/02), myofascial release; heat/cold packs, electrical muscle stimulation beyond 9/30/02, were not found to be medically necessary.

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 October 13, 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.

Review of the Commission's records revealed that a TWCC 21 was filed on 12/26/02, partially states; "IC accepts that an accident occurred in the C & S of employment however the IC Disputes entitlement to income benefits..."

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

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
7/30/02	99204	\$140.00	\$0.00	F	\$106.00	<u>MFG, Evaluation/ Management Ground Rule (VI)(A)</u>	Review of the office note, dated 7/30/02, supports delivery of service. Reimbursement is recommended in the amount of \$106.00.

9/11/02	99213	\$60.00	\$0.00	F	\$48.00	<u>MFG, Evaluation/ Management Ground Rule (VI)(B)</u>	Review of the office note, dated 9/11/02, supports delivery of service. Reimbursement is recommended in the amount of \$48.00.
11/4/02	99213	\$60.00	\$0.00	F	\$48.00	<u>MFG, Evaluation/ Management Ground Rule (VI)(B)</u>	Review of the office note, dated 9/11/02, supports delivery of service. Reimbursement is recommended in the amount of \$48.00.
TOTAL		\$260.00	\$0.00		\$202.00		The requestor is entitled to reimbursement in the amount of \$202.00.

This Decision is hereby issued this 30th day of January 2004.

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

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 7/30/02 through 3/5/03 in this dispute.

This Order is hereby issued this 30th day of January 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/mqo

NOTICE OF INDEPENDENT REVIEW DECISION - REVISION

Date: October 17, 2003

RE: MDR Tracking #: M5-03-3033-01
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 reviewer that had ADL certification. The Chiropractic 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

The claimant allegedly injured her upper arms, shoulders, upper back and neck while performing occupational duties on _____. The said injury involved the computer stations adjustable stand, as she maneuvered the unit to the correct position, she apparently strained her trapezius, cervical and upper thoracic regions, due to the additional force needed to move the unit.

On _____, initial treatment began by _____, inclusive of chiropractic manipulations, passive/active therapy and referral for x-rays and additionally, pain management with _____, per initial evaluation report dated 7/30/02. The referral for X-rays of cervical spine on 7/31/02 by _____ revealed degeneration at C5-C6 and C6-C7.

The initial pain management evaluation report by _____ dated 8/08/02 revealed that the claimant had full range of motion in her neck, with the assessment acute strain of the trapezius muscle and cervical spinous ligaments, due to the heavy lifting/straining.

A range of motion evaluation was performed on 8/13/02 by _____ finding the claimant within normal limits.

The MRI report of the cervical spine dated 10/08/02 by _____ revealed (1) posterior/central disc herniation at C5-C6 and (2) a 2mm posterior/central herniation at C6-C7.

Electrodiagnostic study was performed and reported by _____ dated 10/23/02 denoting left C6 radiculitis. Additionally, it was noted that the findings indicated a condition of less than 1 year development.

The psychosocial evaluation performed and reported by _____ dated 12/11/02 revealed the candidacy for professional counseling/psychotherapy session for the intensity of the claimants depression and recommended treatment goals inclusive of modification of depressive mood, modification of body use, education and implementation of general relaxation methods, address family dynamics and others seen by the multidisciplinary team.

A report of medical evaluation was performed on 12/16/02 by _____ with his recommendations of no further active/passive therapy or MRI would be needed, however, to continue home exercise program and suggest a repeat of electrodiagnostic study and neurological evaluation.

A designated doctor evaluation was performed by _____ on 12/15/02, who states diagnosis as (1) cervicalgia, (2) cervical strain/sprain and (3) shoulder strain/sprain and found the claimant to be at maximum medical improvement on that day, with an Impairment Rating of 7% whole person .

An initial pain management evaluation (denoting a new injury) by _____ dated 1/11/03, assessment to confirm that this is new injury, not an exacerbation of old injury. The treatment plan consisted of continued physical therapy, pain medications and follow up trigger point injections.

An individual therapy evaluation was performed and reported by _____ on 2/03/03, with follow up visits on 2/07/03, 2/17/03 and 3/05/03.

The pain management follow up visit on 2/08/03 by ____, revealed the diagnosis at that time to be: (1) muscle spasms and (2) facet joint syndrome on the right at C4. Assessment of myofascial pain of the bilateral upper trapezius and cervical paraspinals was treated that day inclusive of cervical manipulation and trigger point injections (x8) at C4 right, to be followed up with 7 sessions of occupational therapy.

No further treatment notes were available for this review beyond 3/05/03.

Requested Service(s)

Office visits, myofascial release, special reports, heat/cold packs, electrical stimulation, electrodes and ultrasound therapy from 7/30/02 through 3/05/03

Decision

I disagree with the insurance carrier and find that office visits, special report (dated 7/30/02), myofascial release, heat/cold packs, electrical muscle stimulation and ultrasound were medically necessary and supported, at least through 9/30/02.

I agree with the insurance carrier and find that office visits, special reports (dated 8/06/02, 9/11/02, 9/18/02, 11/04/02 and 12/04/02), myofascial release; heat/cold packs, electrical muscle stimulation and ultrasound were not medically necessary beyond 9/30/02. The office visit/trigger point injection and 1 week trial period of outpatient therapy following the injection date, 2/08/03, is medically necessary. Rationale for this is given below.

Rationale/Basis for Decision

It is my opinion that there is a sufficient amount of documentation to support the necessity for initial chiropractic conservative care related to the injury date of ____, including verified upper extremity radiculopathy, supporting these subjective complaints.

This appears to be a new injury based on objective findings (i.e. electrodiagnostic testing), apparently not present previous to _____. However, I would tend to agree with the required medical exam, examiner on 12/16/02, that the extent of injury is strain/sprain with complicating factors, due to pre-existing conditions of a degenerative nature. This degeneration is also evident in the thoracic spine area.

Further support for this new injury, limiting it to strain/sprain, is in the fact that the treating doctor reported that when comparing the previous MRI in 1999 to the current MRI, it revealed a new herniation at C5-C6, which was not present in the 1999 films. However, in the doctor's initial exam report on 7/30/02, it reports that the claimant had a previous neck injury involving 2 level disc herniations. With this in mind, I fail to see how the C5-C6 herniation is a new finding, when previous to the injury on ____ and after the injury there are apparently still only 2 levels ever reported, C5-C6 and C6-C7. Furthermore, these appear to be mild disc disruptions with degenerative tendencies over time and do not demonstrate severe acute findings. The 1mm herniated increase at C6-C7 to a 2mm overall measurement (pre versus post injury on____) is not indicative of significant proof of worsening, due to this injury, especially since degenerative changes continue over time at different rates and the claimant has continued work status activities since the ____ injury. This claimant was also reported, in more than one examining physician's report, to have periodic residual discomfort and limited activity since the ____ neck injury, further supporting the nature of strain/sprain injury limitations on ____ causing increased pain severity.

Using the TWCC Spine treatment guidelines as a reference, which was consistent with other sources, together with supporting evidence of injury, the claimant would be entitled to treatment for strain/sprain injury to the cervical/upper thoracic area. Initial chiropractic conservative care for strain/sprain injury within a 6-8 week period of time appears reasonable in regards to the frequency and modalities applied. However, as documented in the progress reports, the claimant was not experiencing any significant progress of lasting quality, by way of pain complaints and even the claimant subjectively stated that the chiropractic manipulations were not helping. Therefore, documentation does not support continued chiropractic care, inclusive of passive/active therapies beyond 9/30/02.

NOTE: Due to the continued pain complaints and documented evidence of previous trigger point injection therapy success, it does appear reasonable that this is a necessary step in the medical management treatment of this condition, following the failure of chiropractic conservative care to alleviate the claimant's symptomatology.

Concerning the special reports dated 8/06/02, 9/11/02, 9/18/02 and 11/04/02; these follow up reports are not medically necessary at this frequency. This information should already be included in the treating doctor's daily report, in the assessment and plan sections. These reports are coded 99080-73 (with exception of 9/18/02) and unless specifically requested by the carrier or employer, the need is not established, based on TWCC Rule 129.5, Section (d) (1) (d) (2) and (f) and of course a TWCC-73 should always be filed with the initial exam (7/30/02). One special report on 9/18/02, billed at what appears to be an excessive amount, could not be identified in the documents reviewed. Its necessity is not demonstrated, pending documented support.

Concerning the electrodes; use of these makes it apparent that durable medical equipment was either rented or purchased in the form of TENS or neuromuscular stimulator however, no such documentation was available for review to demonstrate support for its use. Documentation, for the most part, must provide evidence that pain levels were definitely decreased concerning its use and more importantly, that a decrease or total alleviation of pain medication was attained. Per the last treatment note available for this review, dated 3/05/03, the claimant was still experiencing pain at a 6 level and apparently, the use of pain medications continued. Therefore, it is my opinion that the electrodes are not medically necessary, pending any supporting documentation to the contrary.