

MDR Tracking Number: M5-03-3076-01

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 7-22-03.

The IRO reviewed office visits, myofascial release, electrical stimulation, traction, application of modality, kinetic activities, NCV studies, supplies, educational services, and analysis from 7-27-02 through 12-18-02.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO has determined that the office visits from 7-27-02 through 9-5-02 were medically necessary. The IRO agrees with the previous determination that myofascial release, electrical stimulation, traction, application of modality, kinetic activities, NCV studies, supplies, educational services and analysis from 7-27-02 through 12-18-02 and the office visits after 9-18-02 were **not** medically necessary. 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. The disputed dates of service 7-2-02 through 7-23-02 are untimely and not reviewable per TWCC Rule 133.307 (d)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. The Commission received the medical dispute on 7-25-03.

On 10-17-03, 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.

Neither party submitted EOBs; therefore, the disputed dates of service on the table with “No EOB” under Denial Code will be reviewed according to the 1996 *Medical Fee Guideline*.

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

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
7-29-02	99080-73	\$20.00	\$12.75	F	\$15.00	Rule 129.5	Carrier reduced payment to \$12.75 with denial code “F-reimbursement is for the value of a TWCC 73”. Per Rule, the reimbursement is \$15.00. Recommend additional reimbursement of \$2.25.
9-10-02	99090	\$108.00	\$0.00	No EOB	\$108.00	Rule 133.307(g)(3) (A-F)	No documentation was submitted to support delivery of services;

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
9-11-02 9-17-02 9-18-02 11-5-02 11-6-02	99213x5 97530x5	\$48.00 \$105.00	\$0.00	No EOB	\$48.00 \$35.00 ea 15 min		delivery of services; therefore, no reimbursement can be recommended.
9-12-02	99213 97530 99362	\$48.00 \$105.00 \$95.00	\$0.00	No EOB	\$48.00 \$35.00 ea 15 min \$95.00		
9-13-02	99080-69	\$20.00	\$0.00	No EOB	\$15.00	Rule 130.1	Report of Medical Evaluation was not submitted to support delivery of service. No reimbursement recommended.
9-16-02	99215 97014 97012 97530 99080-73	\$103.00 \$20.00 \$20.00 \$105.00 \$20.00	\$0.00	No EOB	\$103.00 \$15.00 \$20.00 \$35.00 ea 15 min \$15.00	Rule 133.307(g)(3)	No documentation was submitted to support delivery of services; therefore, no reimbursement can be recommended.
9-23-02	95851-59 95852 95832 95831-59	\$36.00x2 \$41.00 \$60.00 \$36.00	\$0.00	G	\$36.00 \$41.00 \$45.00 \$29.00		
11-4-02	99213 97014 97024	\$48.00 \$20.00 \$21.00	\$0.00	No EOB	\$48.00 \$15.00 \$21.00		
TOTAL		\$3,148.00	\$12.75				The requestor is entitled to reimbursement of \$2.25.

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 Order is applicable for dates of service 7-27-02 through 9-5-02 in this dispute.

This Order is hereby issued this 10th day of February 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Amended Letter
Note: Decision

October 2, 2003

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-3076-01
IRO Certificate #: IRO 4326

___ 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 rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___ health care professional 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

This patient sustained injuries on ___ when she tripped on the cord of a vacuum cleaner she was carrying. She reported severe right wrist pain and moderate pain in her neck, mid and low back. She saw a chiropractor for evaluation and treatment on 03/07/02.

Requested Service(s)

Office visits, myofascial release, electrical stimulation, traction, application of modality, kinetic activities, nerve conduction velocity (NCV) studies, supplies, educational services, and analysis from 07/27/02 through 12/18/02

Decision

It is determined that the office visits from 07/27/02 through 09/05/02 were medically necessary to treat this patient's condition. However, myofascial release, electrical stimulation, traction, application of modality, kinetic activities, nerve conduction velocity (NCV) studies, supplies, educational services, and analysis from 07/27/02 through 12/18/02 and office visits after 09/18/02 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The patient underwent an impairment rating examination on 07/29/02 and was certified at maximum medical improvement with 0% impairment. A review of the documentation revealed that the patient received nerve conduction velocity studies on 07/27/02 and 09/23/02. These studies were not medically necessary as the neurological examinations of the upper and lower extremities conducted by the chiropractor on both those dates were normal.

The passive modality treatments from 07/27/02 through 12/18/02 consisting of myofascial release, electrical stimulation, traction, and application of a modality were not medically necessary. Passive modalities are generally indicated in the acute phase of care and the protracted use of such modalities is not recommended. The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (e.g., thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (*Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain*". Physical Therapy. 2001; 81:1641-1674).

The Agency for Health Care Policy and Research: Clinical Practice Guideline Number 14, "Acute Low Back Problems in Adults" indicates that "the use of physical agents and modalities in the treatment of acute low back problems is of insufficiently proven benefit to justify its cost". They did note that some patients with acute low back problems appear to have temporary symptomatic relief with physical agents and modalities. Therefore, the use of passive physical therapy modalities (hot/cold packs, electrical stimulation) is not indicated after the first 2-3 weeks of care.

Hurwitz et al studied the net effect of physical modalities on low back pain outcomes among chiropractic patients in a managed-care setting. Clinically relevant improvements in average pain and disability were more likely in the modalities group at 2 and 6 weeks, but this apparent advantage disappeared at 6 months. Perceived treatment effectiveness was greater in the modalities group. The authors concluded that physical modalities used by chiropractors did not appear to be effective in the treatment of patients with low back pain, although a small short-term benefit for some patients cannot be ruled out (*Eric L. Hurwitz, et al, "The Effectiveness of Physical Modalities Among Patient With Low Back Pain Randomized to Chiropractic Care: Findings From the UCLA Low Back Pain Study", JMPT, Vol. 25, No. 1, 2002*).

The educational services provided to the patient and the supplies and analysis were not medically indicated. The documentation submitted by the chiropractor did not support the necessity for the services rendered.

The analysis of the patient's lumbar ranges of motion revealed no appreciable change in results from 07/27/02 through 09/23/02. A review of the patient's rehabilitation notes revealed little change in her condition over the course of her treatment. Progress notes supplied for review of rehabilitation data began on 07/06/02 and went to 12/18/02. The patient's self-reported pain scores changed little over the course of treatment, as her self-reported pain score on 07/06/02 was 5/10 and her pain level dropped to 4/10 by mid-August 2002. The patient maintained a complaint of 4/10 pain throughout the remainder of her treatment. In light of the lack of appreciable benefits from care after the last re-examination available for review, the office visits after 09/16/02 were not medically necessary. An adequate trial of care is defined as a course of two weeks each of different types of manual procedures (4 weeks total) after which, in the absence of documented improvement, manual procedures are not longer indicated. (*Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993*).

The patient has had a protracted course of care in excess of the parameters delineated by the above-mentioned document and has not demonstrated a favorable response to treatment. Therefore, it is determined that the office visits from 07/27/02 through 09/05/02 were medically necessary. However, myofascial release, electrical stimulation, traction, application of modality, kinetic activities, nerve conduction velocity (NCV) studies, supplies, educational services, and analysis from 07/27/02 through 12/18/02 and office visits after 09/18/02 were not medically necessary.

Sincerely,