

MDR Tracking Number: M5-02-2849-01

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 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 8, 2002.

The IRO reviewed work conditioning and work hardening program and FCE rendered from 10-16-01 to 12-28-01 that were denied based upon "U".

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(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On November 20, 2002, 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:

Services that were denied without an EOB will be reviewed in accordance with *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
8-28-01	97265	\$43.00	\$0.00	N	\$43.00	CPT Code description TWCC and the Importance of Proper Coding	Documentation supports billed service. Reimbursement is recommended of \$43.00.
8-28-01 8-29-01	97122	\$35.00	\$0.00	No EOB	\$35.00	CPT Code description TWCC and the Importance of Proper Coding	Documentation supports billed service. Reimbursement is recommended of 2 X \$35.00 = \$70.00.
8-30-01	97122	\$35.00	\$0.00	F	\$35.00	CPT Code description TWCC and the Importance of Proper Coding	Documentation supports billed service. Reimbursement is recommended of \$43.00.
8-31-01	97113	\$156.00	\$0.00	N	\$52.00/ 15 min	Medicine GR (I)(A)(9)(b)	Documentation does not support billed service. 1 to 1 supervision is not documented. Reimbursement is not recommended.
9-4-01 9-18-01 10-1-01	95851	\$36.00 \$72.00 \$36.00	\$0.00	F	\$36.00	CPT Code description TWCC and the Importance of Proper Coding	Documentation supports billed service. Reimbursement is recommended of \$144.00.
9-20-01	97265	\$43.00	\$0.00	N	\$43.00	CPT Code description	Documentation supports billed service. Reimbursement is recommended of \$43.00.
9-20-01	97122	\$35.00	\$0.00	N	\$35.00	CPT Code description	Documentation supports billed service. Reimbursement is recommended of \$35.00.
10-24-01	97545WC	\$72.00	\$0.00	No EOB	\$36.00/hr	Medicine GR (II)(D)	Documentation supports billed service. Reimbursement is recommended of \$72.00.
10-24-01	97546WC	\$26.00	\$0.00	No EOB	\$36.00/hr	Medicine GR (II)(D)	Documentation supports billed service. Reimbursement is recommended of \$26.00.
11-2-01	97750FC	\$200.00	\$0.00	F	\$100.00/hr	Medicine GR (I)(E)(2)(a)	Documentation supports billed service. Reimbursement is recommended of \$200.00.
11-27-01	97545WC	\$72.00	\$0.00	A	\$36.00/hr	Rule 134.600(h)(12)	Preauthorization is required after 4 weeks of program. Preauthorization approval report was not submitted. No reimbursement is recommended.
11-27-01	97546WC	\$204.80	\$0.00	A	\$36.00/hr	Rule 134.600(h)(12)	
TOTAL		\$1108.80					The requestor is entitled to reimbursement of <b>\$676.00</b> .

This Decision is hereby issued this 14<sup>th</sup> day of July 2003.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

**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 8-28-01 through 12-28-01 in this dispute.

In accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee.

This Order is hereby issued this 14<sup>th</sup> day of July, 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
Enclosure: IRO Decision

**AMENDED INDEPENDENT REVIEW DECISION**

October 7, 2002

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

Patient:  
TWCC #:  
MDR Tracking #: M5 02 2849 01  
IRO #: 5251

Ziroc 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 Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc 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 Doctor of Chiropractic. The Ziroc 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 Ziroc 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

This patient was injured on the job when she slipped on a cutter and fell. The result was an injured lumbar spine with a radiculopathy at the L5 level. The issue in this case is contained in the medical necessity of work hardening and Functional Capacity Evaluations. Work conditioning was performed only on October 24, 2001. The review is concentrated on those 3 issues.

A FCE was performed on October 2, 2001 and it demonstrated a fairly significant inability to perform her work. She was classified on her job as a "medium" category, while her ability was only "light" in nature. The endurance of the patient was measured at well below the entry level. Work hardening was initiated on October 16, 2001 and contained the requirements for a work hardening program, including job simulation and psychotherapy, according to the notes we received. The Table of Disputed Services and the EOB lists October 24, 2001 as a date in which Work Conditioning was performed, as opposed to work hardening.

A subsequent FCE was performed, which showed significant improvement and saw the patient closer to normal levels of lifting, yet still significantly deficient. This was performed on November 2, 2001. The work hardening program was deemed to be consistent with treatment goals by the treating doctor and was continued on November 6, 2001. The program seemed to increase in intensity as the program progressed, which would be appropriate in a work hardening program.

FCE #3 was performed on December 5, 2001 and found some improvement, but still a patient who had not achieved her medium work level. The carrier approved 2 additional weeks of work hardening by preauthorization, but later determined the additional treatment, along with the first 6 weeks, was unnecessary.

## DECISION

Disagree with the prior adverse determination. There is ample evidence of medical necessity for work hardening on all disputed dates of service, FCE examinations on 11-2-2001 and 12-5-2001, as well as one date of work conditioning on 10-24-2001.

## BASIS FOR THE DECISION

The work hardening program that began on October 16, 2001 was documented well enough through the Functional Capacity Evaluations to demonstrate that the patient was unable to perform her work in a safe manner. Work hardening/conditioning should be used for persons who have jobs that demand more than the patient is able to perform, of course, but it should also be limited to those who have injuries that are appropriate to such a therapy. This patient was clearly demonstrated to have a radiculopathy at the L5 level, indicating a discogenic pain syndrome. The North American Spine Society Phase III guidelines indicate that in a patient with symptoms extending up to or in excess of 6 months, the interdisciplinary approach is preferred and one of the recommendations is a functional restoration program. It is clear that the program administered in this case was indeed interdisciplinary in nature and was reasonable for a patient with this condition. I disagree with the prior adverse determination regarding work hardening and the 1 date of work conditioning and I feel that the FCE's were reasonable and did impact the type of treatment rendered on this case.

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,

Nan Cunningham  
President/CEO

CC: Ziroc Medical Director