

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-2975.M5**

MDR Tracking Number: M5-04-2195-01

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. The dispute was received on 3-15-04.

In accordance with Rule 133.308 (e), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 11/20/03, therefore the following date(s) of service are not timely and are not eligible for this review: 3-14-03.

The requestor withdrew the office visits for dates of service 4-23-03, 5-1-03 and 6-11-03 on a letter dated 10-4-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of 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** 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.

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. The therapeutic exercises, office visits, manual traction, kinetic activities and aquatic therapy **were found** to be medically necessary. The myofascial release, joint mobilization, electrical stimulation and massage **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The carrier denied CPT Code 99080-73 with a V for unnecessary medical treatment based on a peer review, however, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. Requester submitted relevant information to

support delivery of service. **Per Rule 134.1(c) recommend reimbursement of CPT Code 99080-73 for 3-27-03 and 6-11-03 for a total of \$30.00.**

This Findings and Decision is hereby issued this 8<sup>th</sup> day of October, 2004.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay 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 to dates of service 3/17/03 through 6-11-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8<sup>th</sup> day of October 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/da

June 16, 2004  
Amended June 24, 2004

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

Patient:  
TWCC #:  
MDR Tracking #: M5-04-2195-01  
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 reviewer is on the TWCC Approved Doctor List (ADL). 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

The patient in question was injured while working for UPS. A 40 pound package fell onto his head and caused numerous lacerations and an immediate onset of pain in the cervical spine. He was treated for the injuries by Dr. M with conservative care including chiropractic and physical modalities. EMG of the cervical spine nerve roots were negative for radiculopathy. A designated doctor evaluation by Dr. W was performed on August 7, 2002 and the patient was found to not be at MMI. A second designated doctor evaluation was performed by Dr. W on March 19, 2003 and the patient was found to be at MMI with 5% impairment. The carrier's reviewer, Dr. J, of \_\_\_ recommended no treatment after July 18, 2002.

#### DISPUTED SERVICES

The carrier has denied the medical necessity of therapeutic exercises, office visits, myofascial release, joint mobilization, manual traction, electrical stimulation, massage, kinetic activities and aquatic therapy/exercises.

#### DECISION

The reviewer agrees with the prior adverse determination for myofascial release, joint mobilization, electrical stimulation and massage.

The reviewer disagrees with the prior determination for all other treatments rendered.

## BASIS FOR THE DECISION

Clearly the patient was making progress with active treatment. Such progress should not be overlooked in a patient's return to work program, as the active treatments were allowing his recovering to progress nicely. The reviewer finds this treatment to be reasonable and necessary. The reports of the designated doctor do indicate that the patient needed physical medicine treatment. The reviewer finds little or no data in the file to support passive treatments at this particular stage of the patient's treatment plan. While the active care was clearly making a difference in the patient's ability to return to work, the passive treatments seemed to have little effect at this point in time and would not be considered necessary.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

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,