

MDR Tracking Number: M5-04-2275-01

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 3-17-04.

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 the only issue** to be resolved. The office visits, therapeutic exercises, whirlpool, aquatic therapy, and joint mobilization services rendered from 3/17/03 through 4/04/03 **were found** to be medically necessary. The myofascial release and ultrasound procedures from 3/17/03 through 4/04/03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 9th day of August 2004.

Regina L. Cleave
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 4/04/03 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 9th day of August 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

DRM/rlc

July 12, 2004
Amended July 27, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-2275-01
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 records on this case are minimal in nature. There is no description from either the carrier or the requestor as to how this patient was injured. There is a bit of a description

of the history in that the patient apparently was injured in his shoulder and underwent a right total shoulder replacement. A re-evaluation by the physical therapist, ____, indicates that the patient was 60 years of age and had undergone 12 weeks of post-operative therapy as of March 5, 2003. He recommended a FCE to assess the deficits of the patient, but no FCE is presented in the records from any source. The evaluation that was presented did indicate that the patient was making good progress through his program of treatment by increasing his range of motion and endurance. He was also tolerating the exercises that were prescribed quite well. Muscle testing indicated that he was weak in numerous areas of assessment in this evaluation and grip strength was also reduced.

DISPUTED SERVICES

The carrier has denied the medical necessity of office visits, therapeutic exercise, joint mobilization, applications of modalities (whirlpool), aquatic therapy, myofascial release and ultrasound from March 17, 2003 through April 4, 2003.

DECISION

The reviewer agrees with the prior adverse determination regarding modality applications, myofascial release and ultrasound, but disagrees with the prior determination for all other therapies in dispute.

BASIS FOR THE DECISION

The use of passive modalities at this point in the patient's care is not documented as to its necessity. While passive treatment does have a place in the care of a patient, this patient's deficiencies that were documented were mechanical in nature and were more likely to respond to active care. The requestor did document that the patient has responded to the care rendered in the past as well as the fact that the patient still had deficiencies that required work. The active care that was rendered clearly was helping this patient to return to a reasonable strength level in his shoulder and this would indicate that the care was reasonably rendered with an expectation that the patient would benefit from the care. As a result, the reviewer finds that the active care rendered was reasonable and 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,