THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-0210.M5

MDR Tracking Number: M5-04-2527-01

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 April 13, 2004.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the naproxen and mobisyl cream from 12-16-03 through 02-18-04 were not medically necessary.

The naproxen and mobisyl cream on dates of service 10-03-03 and 11-13-03 have already been addressed on MDR Tracking number M5-04-1662-01.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 12-16-03 through 02-18-04 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 3rd day of August 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

July 22, 2004
Amended July 29, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-2527-01
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 Osteopathy board certified in Anesthesiology and specialized in Pain Management. 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

___ was injured on ___ when he fell from a standing position, landing in a kneeling position and injuring his right knee. He sustained an avulsion fracture of the posterior tibial plateau in the region of the posterior cruciate ligament regarding the right knee, but there is no direct documentation for that injury, only a reference in a Required Medical Evaluation performed by Dr. B on 06/21/02.

Dr. B also indicated that the patient had no interest in having surgery and had been on Social Security disability from 1998. Dr. B also documented that the patient had a history of infantile polio myelitis affecting the right lower extremity. An x-ray was taken demonstrating no evidence of osteoarthritis of the knee on that visit. Other than the knee problem, there was no other pain complaint mentioned by Dr. B on his RME.

The patient continues, however, to be treated by Dr. P, neurosurgeon, for a complaint of lumbosacral pain. Dr. P has been prescribing Tramadol, Nabumetone, Baclofen, Thera-Gesic, Naproxen and Mobisyl for this patient from 10/03/03 through 02/18/04. For the time period in question, there are no progress notes from Dr. P indicating follow-up or documenting whether this patient is obtaining any benefit from the medication.

Prior to the time period in question, however, Dr. P documented that this gentleman has chronic degenerative changes in his lumbar spine, and that he continues to be treated for pain due to these chronic degenerative changes. He stated on 07/15/03, "His Workers Compensation situation appears to be stable and static." He also stated that the patient had "preexisting degenerative disc disease and degeneration of the articular facets."

This patient has also had several peer reviews performed by Dr. N who states that the patient's treatment is not reasonable or necessary for the work injury of ___, since the patient's symptomatology of mechanical low back pain is "the result of degenerative change of his lumbar

spine as identified on the CT myelogram done in 1994." He also states, "current symptoms would not be related to the work injury and therefore no current treatment would be necessary for the work injury." Although the actual CT myelogram report from 04/13/94 is not available to the

Ziroc reviewer, Dr. N does state the findings demonstrating degenerative changes in the lumbar vertebrae and changes of osteoarthritis in the facet joints bilaterally at L5/S1, worse on the left side.

He also points out that Dr. P has continually documented no neurologic deficit in the physical examination performed on this patient since 1994. In fact, Dr. N documents that Dr. P saw the patient on 05/18/94 approximately ___ weeks following the injury documenting no major pain, no leg pain, and continued negative straight-leg raising test with "no neural deficit."

DISPUTED SERVICES

Under dispute is the medical necessity of Naproxen and Mobisyl.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

It is apparent from the records reviewed that this patient had and continues to have degenerative lumbar disc disease and degenerative lumbar facet disease. Although he may have no symptoms prior to the injury of ___, and it is certainly possible that non-symptomatic degenerative spine disease could become symptomatic as a result of a fall, there is no medical evidence or support for the notion that the patient's continuing pain a decade later would in any way still be related to the event of ___.

The event of ___ was nothing more than a lumbosacral sprain/strain injury. It did not cause any damage, injury or harm to any part of the patient' lumbar spine and certainly was not responsible for the degenerative spine disease that was seen on CT myelogram only one month following the injury. No more than 8-12 weeks of treatment would be necessary to provide healing and resolution of the lumbosacral strain event, especially in the absence of any evidence of damage, injury or harm to this patient's lumbar spine as a result of the actual event.

___'s residual symptomatology of mechanical low back pain is solely the result of the degenerative changes of his lumbar spine as identified in 1994, and which in all medical probability continues today. His current symptoms are not related to the work injury.

Although this patient may have a medical reason for taking these medications to treat his degenerative spine disease, that medical reason is in no way related to the ___ work event. Therefore, there is no medical reason or necessity for him to continue to receive any prescription medications for treatment of the work injury, as there is no medical probability that such treatment or medications will in any way enhance the patient's clinical status regarding the work injury or return-to-work issues. In fact, this patient has been on Social Security disability since

1998, with no apparent desire or effort to return to the workforce documented anywhere in the records.

Treatment guidelines do not require maintenance treatment or treatment for ordinary disease of life, which is in fact the condition for which this patient continues to receive medication from Dr. P.

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,