

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

SOAH DOCKET NO. 453-04-8260.M5

MDR Tracking Number: M5-04-2566-01

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 04-16-04.

The IRO reviewed therapeutic exercises, office visits, neuromuscular re-education, myofascial release and joint mobilization rendered from 04-15-03 through 07-10-03 that were denied based upon “U”.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
04-17-03 through 07-10-03 (29 DOS)	99213	\$1,392.00 (1 unit @ \$48.00 X 29 DOS)	\$0.00	U	\$48.00	IRO DECISION	IRO determined services were not medically necessary. No reimbursement recommended.
05-01-03 through 07-10-03 (25 DOS)	97250	\$1,075.00 (1 unit @ \$43.00 X 25 DOS)	\$0.00	U	\$43.00	IRO DECISION	IRO determined services were not medically necessary. No reimbursement recommended.
05-01-03 through 07-10-03 (25 DOS)	97265	\$1,075.00 (1 unit @ \$43.00 X 25 DOS)	\$0.00	U	\$43.00	IRO DECISION	IRO determined services were not medically necessary. No reimbursement recommended.
04-15-03 through 07-10-03 (30 DOS)	97110	\$1,890.00 (2 units @ \$70.00 DOS 05-01-03 through 07-10-03 24 DOS and 1 unit @ \$35.00 X 6 DOS)	\$0.00	U	\$35.00	IRO DECISION	IRO determined services were medically necessary. Reimbursement recommended in the amount of \$70.00 X 24 DOS = \$1,680.00 and \$35.00 X 6 DOS = \$210.00. Total reimbursement recommended in the

		04-15-03 through 04-30-03					amount of \$1,890.00
DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
04-22-03 through 07-10-03 (28 DOS)	97112	\$980.00 (1 unit @ \$35.00 X 28 DOS)	\$0.00	U	\$35.00	IRO DECISION	IRO determined services were medically necessary. Reimbursement recommended in the amount of \$35.00 X 28 DOS = \$980.00
TOTAL		\$6,412.00					The requestor is entitled to reimbursement of \$2,870.00

The IRO concluded that office visits, myofascial release and joint mobilization **were not** medically necessary. The IRO concluded that therapeutic exercises and neuromuscular re-education from 04-15-03 through 07-10-03 **were** medically necessary.

On this basis, the total amount recommended for reimbursement (**\$2,870.00**) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid 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 Findings and Decision is hereby issued this 6th day of July 2004.

Debra L. Hewitt
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 04-15-03 through 07-10-03 in this dispute.

This Order is hereby issued this 6th day of July 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

June 22, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-2566-01
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

This patient was injured on the job on ___ while employed by ___. While working in the accounting department he moved boxes and experienced a sudden onset of back pain. The treating doctor, Dr. D initially saw him on March 18, 2003 and diagnosed him with lumbar radiculitis. He was referred for lumbar MRI and physical therapy. Via Dr. D's initial consultation note, he also recommended a pain consult with Dr. A and an orthopedic consult with Dr. J. If these consultations occurred, they were not included in the records for review. The lumbar MRI on 04/29/03 revealed a 1mm L4/5 disc bulge, slightly indenting the thecal sac. Unilateral sacralization of L5 on the left was also seen. No other significant findings were reported.

The next note for review is a "Daily Progress Note" signed by Dr. M and it is dated 04/15/03. There are no records to indicate earlier therapeutic intervention. There are no Work Status Reports for review. There is no physical exam provided by Dr. M. There is no history provided by Dr. M. The reviewer reviewed 36 dates of service provided by Dr. M from 04/15/03 through 07/19/03, though the span of the review was only to be through 07/10/03, which would include 32 of 36 visits submitted for review.

The only records available for review that directly refer to treatment provided by Dr. M are the Daily Progress Notes. There is no substantiation for the 99213 level of evaluation and management visits at any of the dates in dispute. In fact, reviewing the notes submitted, each date of service appears to be exactly or very nearly the same, not only with regard to subjective reporting but also to treatment rendered.

Regarding treatment of therapeutic exercises and neuromuscular re-education, the submitted records reflect accurately that the services were performed and billed appropriately.

Regarding myofascial release and joint mobilization, the records submitted only indicate that the services were billed. There is no distinctions to tissue area, type of manual therapy, time provided, etc recorded. The only indication the service was performed is a check-off type area on the Daily Progress Note indicating the CPT code. The same goes for joint mobilization. Nowhere in the submitted records does the reviewer find the specific joint that was mobilized, the response to the mobilization, or any other standard medial reporting verbiage.

DISPUTED SERVICES

Under dispute is the medical necessity of therapeutic exercises, office visits, neuromuscular re-education myofascial release and joint mobilization.

DECISION

The reviewer agrees with the prior adverse determination regarding 99213 office visits, Myofascial release and joint mobilization from April 15 through July 10, 2003.

The reviewer disagrees with the prior adverse determination regarding therapeutic exercises and neuromuscular reeducation from April 15 through July 10, 2003.

BASIS FOR THE DECISION

The reviewer finds that the therapeutic exercises and neuromuscular reeducation were medically necessary and appropriate during the disputed dates of service, as it is clear that ___ was injured as reported and had objective findings consistent with a disc injury at L4/5.

However, the remainder of the billed treatment was medically unnecessary. This is primarily due to poor documentation for the necessity of the services. It seems apparent that Dr. M is employed by or owns a multi-discipline practice and was working in conjunction with the treating physician, and it appears that he was applying treatment in the manner that a physical therapy technician would, in that he performed no physical examination and made poor indications as to the progress of the patient throughout the treatment period. Moreover, there was no ongoing dialogue submitted between Dr. D and Dr. M. Nowhere in the record can an evaluation and management service of 99213 be substantiated. In fact, reviewing the records submitted, it appears that each date of service is documented almost entirely the same from day to day. There is no history or physical examination at the onset of care by Dr. M, and again the daily progress notes are lacking sufficient detail to substantiate the level of service billed for. There is no clear indication as to the patient's progress or lack thereof.

Again, the same rationale goes for the myofascial release and joint mobilization. Dr. M failed to document that the procedures were performed, there was merely a check-off box in the billing section of his daily note. This falls far below the standard of medical documentation. Because Dr. M failed to document the actual areas of the body treated, time of treatment and response to each of these services, it is not medically necessary. The doctor has a duty to substantiate the treatment he is billing for.

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,