

**TEXAS WORKERS' COMPENSATION COMMISSION
MEDICAL REVIEW DIVISION, MS-48
MEDICAL DISPUTE RESOLUTION
FINDINGS AND DECISION**

Sam Liscum, DC
9521-C W. FM 1097
Willis TX 77318

Requestor

V.

TASB Risk Management Fund Box 12

Respondent

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MDR TRACKING #: M5-04-2855-01
TWCC FILE #:
CLAIMANT:
DOI: 3-4-03

Si prefiere hablar con una persona de habla hispana acerca de esta correspondencia sirvase llamar al (512) 804-4812.

The Medical Review Division reviewed the decision of the Independent Review Organization (IRO) in the captioned medical dispute and concludes the dispute with the enclosed Decision and Order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within **20** days of your receipt of this Decision (28 Tex. Admin. Code § 148.3). This Decision is deemed received by you five days after it was mailed and the first working day after the date the Decision was placed in the Austin Representative's box (28 Tex. Admin. Code § 102.5 (d)). A request for hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, TX 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request.

The party appealing the Division's Decision and Order shall deliver a copy of this written request for a hearing to the opposing party involved in the dispute.

<p>I hereby verify that a copy of this Decision and Order was placed in the Austin Representative's box and mailed to the requestor applicable to Commission Rule 102.5 this _____ day of _____ 2004. Per Commission Rule 102.5(d), the date received is deemed to be five days from the date mailed and the first working day after the date the Decision was placed in the Austin Representative's box.</p> <p>Signature of Commission Employee: _____</p> <p>Printed Name of Commission Employee: _____</p>
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Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 disputed date of service 5-2-03 is untimely and ineligible for review per TWCC Rule 133.308 (e)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. This dispute was received on 5-4-04.

The IRO reviewed muscle testing, therapeutic exercises, office visits, myofascial release, joint mobilization, whirlpool, electrical stimulation (unattended), massage therapy, chiropractic manual treatment, and electrical stimulation.

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(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** 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 6-25-04, 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.

- Code 99080-73 was billed for dates of service 5-12-03 and 12-29-03 and neither party submitted an EOB. The TWCC-73 is a required report and the Medical Review Division has jurisdiction in this matter; therefore, recommend reimbursement of \$15.00 x 2 days = \$30.00.
- Code 99080 (50 pages of medical records) was billed for date of service 10-13-03. The carrier paid \$25.00 (50 pages @ \$.50 per page per Rule 133.106 (f)(3)). No additional reimbursement recommended.
- Codes 97265, 97250, 97022, 97014 were billed for date of service 7-30-03 and neither party submitted an EOB. Therefore, these services will be reviewed per the 1996 Medical Fee Guideline. Since the carrier did not provide a valid basis for the denial of these services, recommended reimbursement of \$43.00 + \$43.00 + \$20.00 + \$15.00 = \$121.00.
- Code 97124 (2 units) was billed for date of service 12-29-03 and neither party submitted an EOB. Therefore, this service will be reviewed per Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, recommended reimbursement of \$25.70 (\$20.56 x 2 units = \$41.12 x 125% = \$51.40).

The above Findings and Decision is hereby issued this 29th day of October 2004.

Medical Dispute Resolution Officer
Medical Review Division

ORDER

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 outlined above as follows:

- In accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- In accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c);
- 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 5-7-03 through 12-29-03 as outlined above 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 29th day of October 2004.

Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO Decision

Ziroc

July 28, 2004
Amended September 24, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-2855-01
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 sustained a work-related lumbar disc injury on March 4, 2003. An MRI was performed on May 1, 2003 that revealed a disc herniation at L1/2 and multilevel stenosis ranging from L1-L5. An L5 radiculopathy was documented on EMG that was performed on December 12, 2003. Disc bulges are also noted at L3/4, L4/5 and L5/S1. Dr. William Donovan examined the patient and noted instability of L5 on flexion and extension radiographs. Lumbar discography was requested, but it is unclear whether the test was authorized by the insurance carrier. The patient underwent conservative care to include chiropractic manipulation, physical therapy modalities and therapeutic exercises through December of 2003 with some improvement noted in his condition.

DISPUTED SERVICES

Under dispute is the medical necessity of muscle testing, therapeutic exercises, office visits, myofascial release, joint mobilization, whirlpool, electrical stimulation unattended, massage therapy, chiropractic manual treatment and electrical stimulation.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The conservative care rendered this patient in the form of manipulation, office visits, physical modalities and therapeutic exercises was utilized to bring this case to a successful conclusion. All services and activities were properly documented and include subjective as well as objective notations in response to the treatment. This treatment was reasonable and necessary as it was designed to increase function and relieve symptoms so

the patient could return to gainful employment. The TWCC Medicine Ground Rules state on page 31.1(A)2 that the treatment in question should be “specific to the injury and provide potential improvement of the patient’s condition.” The treatment was medically necessary, as it was intended to “cure or relieve” the symptoms resulting from the compensable injury as outlined in the Texas Workers’ Act, section 401.001 (31).

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,

Nan Cunningham
President/CEO

CC: Ziroc Medical Director