

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 5-21-04.

In accordance with Rule 133.307 (d), 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 5/21/04, therefore the following dates of service are not timely: 5/19/03 and 5/20/03.

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 \$650** 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 work hardening program and physical performance tests rendered from 5/21/03 through 7/03/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

This Findings and Decision is hereby issued this ___19___ day of October 2004.

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 5/21/03 through 7/03/03 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 19th day of October 2004.

Manager
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO decision

Ziroc

July 26, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-3163-01
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 Medical Doctor board certified and specialized in Physical Medicine and Rehabilitation. 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

_____, a teacher assistant, suffered a work-related injury while employed by the _____ on _____. While attempting to stop two students from fighting she grabbed one of the students to move him aside, but suffered injured her right shoulder in doing so. She reports that she did not feel pain until the next day. The following day she sought treatment for her injury at Baylor Hospital emergency room.

Of particular note are the history, the work hardening program notes/records, and also the report from Dr. John Barnett that is dated 05/09/03. Also noted is the appeal/medical dispute reply letter from North Texas Rehabilitation Center dated 06/14/04.

DISPUTED SERVICES

Under dispute is the medical necessity of work hardening and physical performance testing.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Some of Dr. Barnett's negative decision was apparently based on not having complete records. After review of the June 2004 letter from North Teas Rehabilitation Center, it is particularly noted that the patient did make significant gains and was released to full work duty following the Work Hardening program, effective 07/17/03. It therefore does appear the essential aspects of medical necessity were established.

The Ziroc reviewer concludes there did exist adequate medical necessity for the work hardening and physical performance testing from 05/21/03 through 07/03/03.

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



TEXAS
WORKERS' COMPENSATION COMMISSION
7551 Metro Center Drive, Suite #100, Austin, Texas 78744
(512) 804-4800

MEMORANDUM

DATE: ___/___/ 2004

TO: Austin Commission Representative, Box # 42

CARRIER:

FROM: Medical Review Division

RE: NOTICE of Independent Review Organization and
 Medical Dispute Resolution **DECISION & ORDER**

This memorandum shall serve as your notice to present yourself to the Mail Room Service Counter:

(X) An IRO and MDR Decision & Order.

The above referenced document has been issued in a medical dispute case review pertaining to the following claimant and insurance carrier:

IDENTIFIER

MDR TRACKING #: M5-04-3163-01
TWCC FILE #:
CLAIMANT:
DOI:
SSN:
SERVICE FROM: 5/19/03
SERVICE TO: 7/03/03

I, the undersigned Representative of the above referenced insurance carrier, do hereby acknowledge receipt of the IRO and MDR Decision & Order applicable to a medical dispute resolution request solicited by the requestor.

Receipt of this Decision & Order is hereby acknowledged this ___ day of _____ 2004.

Signature of Commission Representative: _____

Printed Name of Commission Representative: _____