

MDR Tracking Number: M5-04-3322-01

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 6-01-04.

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 physical therapy evaluation and therapeutic exercises rendered from 12/02/03 through 12/22/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

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 Medicare reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(1);
- 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 12/02/03 through 12/22/03 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 Decision and Order is hereby issued this 1st day of September 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

August 20, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-3322-01
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 Orthopedic Surgery. 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

___'s MRI of 01/29/03 shows degenerative changes, bulging and right L3/4 herniation. An office visit on 12/01/03 with Dr. W states that he felt better after ESIs. His assessment is status post laminectomy with recurrent disc and lumbar radiculopathy. The plan was to perform physical therapy "for conditioning." An initial physical therapy evaluation documents motor deficits and decreased range of motion. Physical therapy notes from 12/02/03 to 12/22/03 document modalities performed including active exercises and hot packs. The notes indicate an increase in muscle strength and an increase in range of motion.

DISPUTED SERVICES

Under dispute is the medical necessity of hot/cold pack therapy, therapeutic exercises and patient evaluation.

DECISION

The reviewer disagrees with the previous adverse determination regarding the disputed therapeutic exercises and patient evaluation.

The reviewer agrees with the previous adverse determination regarding hot/cold pack therapy.

BASIS FOR THE DECISION

This patient is status post laminectomy. He had objective deficits on testing before initiating a course of physical therapy. The therapy was directed at correcting this deficit through an active exercise program that was transitioned to a home-based program. The therapy was limited in scope and achieved its goal.

Passive modalities (hot packs) were not indicated in this case during the time period in question.

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,