

MDR Tracking Number: M5-04-3413-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 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. This dispute was received on June 7, 2004.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the issues of medical necessity. The chiropractic manipulative treatment, therapeutic activities, gait training, nerve conduction studies, reflex testing and physical performance testing denied with V and/or U from 08-06-03 through 01-28-04 **were** medically necessary. The electrical stimulation, ultrasound, massage and diathermy denied with U and/or V from 08-06-03 through 01-28-04 **were not** medically necessary. 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 07-15-04, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
08-06-03 08-11-03 08-13-03 08-15-03 08-18-03	98941 x5	\$175.00	\$0.00	No EOB	\$41.89 x 5	Medicare Fee Schedule Rule 133.307 (e)(2)(B)	CPT code 98941 for dates of services 08-06-03 through 08-18-03 were billed by the requestor and denied by the carrier. Neither party submitted EOB's for these dates of services. However, the requestor submitted convincing evidence of carrier receipt of

							the providers' request for EOB's. Therefore, these dates of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, reimbursement is recommended in the amount of \$175.00.
DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
08-15-03 09-15-03 10-01-03 10-15-03 11-03-03 11-17-03 12-15-03 02-03-04	99080-73	\$120.00 (\$15.00 x 8)	\$0.00	U U V U U V U	\$15.00 x 8	Medicare Fee Schedule, Rule 133.106 (f)(1)	TWCC-73 is a TWCC required report and therefore, is not subject to an IRO review. Recommend reimbursement for 99080-73 rendered from 08-15-03 through 02-03-04 in the amount of \$120.00.
TOTAL		\$295.00					The requestor is entitled to reimbursement of \$295.00.

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) and in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b); 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 for dates of service 08-06-03 through 02-03-04 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 5th day of November 2004.

Patricia Rodriguez
 Medical Dispute Resolution Officer
 Medical Review Division

PR/pr

August 9, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-3413-01
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 working for ___ as a custodial worker. In the course of her work, she attempted to lift and pull a dolly loaded with boxes of chemicals and strained her back, neck & shoulders.

DISPUTED SERVICES

Under dispute is the medical necessity of electric stimulation, ultrasound, massage, physical performance test, chiropractic manipulative treatment, gait training, therapeutic activities, nerve conduction, sensory testing, reflex testing & diathermy from 8/6/03 through 1/24/04. Additional notations required that Chiropractic manipulative treatment for 8/6/03 – 8/14/04 were not to be reviewed, and special reports were not to be reviewed.

DECISION

The reviewer agrees with the prior adverse determination regarding electric stimulation, ultrasound, massage and diathermy.

The reviewer disagrees with the prior adverse determination regarding chiropractic manipulative treatment, therapeutic activities, gait training, nerve conduction studies, reflex testing and physical performance testing.

BASIS FOR THE DECISION

The Ziroc reviewer recommends approval of Chiropractic manipulative treatments since the patient did appear to progress to a point of minimal pain.

The reviewer recommends approval of therapeutic activities and gait training since these are active therapies that require participation of the patient to strengthen and improve her functional state, and to perform activities in a manner, which is more conducive to a pain-free state.

The reviewer recommends approval of nerve conduction, sensory and reflex testing as these are legitimate testing procedure designed to help the physician evaluate and diagnose a patient's condition and assess the progress being made, or the lack thereof. Additionally, according to TWCC Guidelines, Physical Performance Testing can be performed monthly to assess a patient's ability to perform work duties. This test should also be approved.

The reviewer recommends denial of electric stimulation, ultrasound, massage, & diathermy. These passive modalities are not generally considered appropriate past the first 6 weeks of care. Since the previous physician had performed passive modalities without significant improvement, their continuance beyond the initial 6 weeks is not warranted. Passive modalities beyond the initial 6 weeks of care requires pre-authorization for an extension of treatment time. There was no such request for pre-authorization in the notes reviewed.

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,