

MDR Tracking Number: M5-04-3490-01

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 6-14-04.

In accordance with Rule 133.308 (e), 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 following date(s) of service are not timely and are not eligible for this review: 6-12-03.

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 \$650.00** 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.

The electrical stimulation, hot-cold pack therapy, vasopneumatic device, office visits, ultrasound, myofascial release, therapeutic activities, neuromuscular reeducation, low osmolar contrast material injection, supplies, non-invasive oximetry, introduction of needle or intracatheter, unlisted evaluation, myelography and range of motion testing from 6-20-03 through 8-22-03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On 7-20-04 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.

In a letter dated 12-9-04 the requestor withdrew all fee dispute items.

This Finding and Decision is hereby issued this 15th day of December , 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division
DA/da

Pursuant to 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) 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); in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(6); 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 6-14-04 through 11-13-03 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 15th day of December , 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO decision
RL:da

September 10, 2004
Amended December 1, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-3490-01
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.

RECORDS REVIEWED

- Table of disputed services
- TWCC form 60
- 22 pages of denied services by Texas Mutual
- Initial evaluation 06/12/03 by Dr. Fults
- final request of consideration for DOS 06/14/03 through 08/22/03
- HCFA forms
- Texas Mutual Insurance claim denials
- Follow-up visit on 06/20/03
- Procedure report 07/11/03
- Lumbar epidural injection
- Procedure on 07/25/03 of lumbar epidural steroid injection #2
- Follow-up visit on 07/28/03
- Procedure on 08/08/03 lumbar epidural steroid injection

CLINICAL HISTORY

___ hurt his back while lifting on ___. He missed several days of work. His injury was reported to his supervisor. He had difficulty finding a doctor to see him under workers' compensation. He states his treatment was delayed because of concern that his employer would fire him. After he reported his injury or illness, they did fire him. The carrier was denying his claim because of delay between the date of injury and the dates of treatment. Treatment was aggressive and somewhat compressed due to the severity of his pain. He was diagnosed as having central disc herniation L5/S1 by MRI and was diagnosed as having radiculopathy. He was treated with physical therapy initially, pain medications and rest, and then by a series of lumbar epidural steroid injections. He had a functional capacity evaluation to determine where he was, as well as recommending he be considered for a chronic pain program. There was also delay in treatment because of high blood pressure and it was necessary to have him evaluated by a cardiologist prior to participating in active therapies.

DISPUTED SERVICES

Under dispute is the medical necessity of electrical stimulation, hot/cold pack therapy, vasopneumatic device, office visits, ultrasound, myofascial release, therapeutic activities, neuromuscular reeducation, low osmolar contrast material, injection, supplies, non-invasive oximetry, introduction of needle or intracatheter, unlisted evaluation 99499, myelography and range of motion testing from 06/20/03 through 08/22/03.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient was injured on ___ and was unable to receive therapeutic treatment for a month or so because of disputes over compensability. This gentleman was not malingering or misrepresenting the facts. There is no medical documentation that justifies the refusal for treatment of this patient. The treatment provided meets the standard of care for a patient with a low back injury who has sought care for his low back injury from the providing doctors and therapists.

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