MDR Tracking Number: M5-04-3817-01

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 07-06-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the neuromuscular re-education, aquatic therapy, gait training and therapeutic exercises group of 2 or more rendered from 07-08-03 through 09-26-03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service from 07-08-03 through 09-26-03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 27th day of August 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

August 23, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-3817-01
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

___ is a 60-year-old female who, on ___, injured her lower back when she lifted a water bottle. Thereafter, the records state that she received three lower back surgeries, the first included a three-level fusion (L3-4, L4-5, L5-S1) followed by a hardware removal surgery, and finally removal of a broken S1 screw (right side) and excision of pseudoarthrosis L2 to sacrum bilaterally that occurred on 02/27/03. When the patient continued to be symptomatic, she received a epidural steroid injections and nerve root blocks, and physical therapy.

DISPUTED SERVICES

Under dispute is the medical necessity of neuromuscular reeducation (97112), aquatic therapy (97113), gait training (97116), and therapeutic exercises, group of 2 or more (97150) for dates of service 07/08/03 through 09/26/03.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) As time progresses, there should be an increase in the active regimen of care, a decrease in the passive regimen of care and a decline in the frequency of care. (B) Home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency. (C) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (D) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are

present. (E) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment.

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. With documentation of improvement in the patient's condition and restoration of function, continued treatment may be reasonable and necessary to effect additional gains.

In this case, the medical records submitted for review lacked any documentation establishing medical necessity. In addition, they failed to establish any over-all improvement in the functional status as it pertains to returning this patient to work. Specifically, the records lacked any objective assessment upon which to base the rationale for continued care. No initial or interim examinations or reexaminations were available to assess changes/gains in range of motion, and no outcome assessment measurements were provided to monitor patient response. Furthermore, there was no end-point provided for further treatment, any notation for review that outlined plans to reduce treatment frequency and return the patient to work, substantiating the need for these services. And, there was no utilization of a Visual Analog Scale (VAS), or some other type of device to more objectively monitor patient pain levels; rather, use of words such as "same", "better," or "worse" were recorded visit to visit.

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,