**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: SOAH DOCKET NO. 453-05-3383.M5**

MDR Tracking Number: M5-04-3831-01

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 2-28-03.

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 $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.

The office visits, radiologic exam, electrical stimulation unattended, hot-cold pack therapy, electrical stimulation, manual therapy techniques, neuromuscular reeducation, myofascial release, therapeutic exercises, supplies and materials from 5-3-02 through 1-13-03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 8-3-04 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.

Review of CPT codes 99213-MP, 97110 and 97250 for date of service 10-30-02 revealed that neither the requestor nor the respondent submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the provider did not submit convincing evidence of carrier receipt of the providers request for EOBs. **No reimbursement is recommended.**

Review of CPT code 97014 for dates of service 12-17-02, 12-19-02, 12-20-02, 12-26-02, 12-27-02, 12-30-02, 12-31-02 and 1-3-03 revealed that neither the requestor nor the

respondent submitted copies of EOB's. Per Rule 133.307(e)(2)(B) the provider did not submit convincing evidence of carrier receipt of the provider's request for EOBs. **No reimbursement is recommended.**

This Finding and Decision is hereby issued this 21st day of December, 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

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; 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 5-3-02 through 1-13-03 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 21st day of December , 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL:da
Enclosure: IRO decision

September 10, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-3831-01
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

___ sustained a work-related injury when he slipped on pain and fell onto his buttocks while carrying a 90-pound axle. He injured his cervical and lumbar spine, his right knee and right elbow.

The patient underwent conservative care under the direction of Dr. Jimmy Ruland, including manipulation, office visits, electrical stimulation, manual therapy, neuromuscular re-education, myofascial release, therapeutic exercises and various supplies and materials to facilitate the treatment. This treatment was rendered during the time additional medical opinions, tests and treatments were sought and carried out.

The results of these tests are as follows: an MRI of the right knee revealed a thickening of the proximal medial collateral ligament; an MRI of the lumbar spine demonstrated multi-level disc protrusion that abut the nerve roots at L3/4, L4/5 and L5/S1; an MRI of the cervical spine showed congenital narrowing of the central canal from C3 through C6, bilateral neural foraminal stenosis at C3/4 and C4/5, and a disc protrusion at C7/T1 that effaces the ventral thecal sac. A lumbar CT-myelogram revealed abutment of the ventral thecal sac by disc protrusions at L3/4 and L4/5. EMG & NCV studies of the upper and lower extremities showed abnormalities at C5, C7, L5 and S1. ___ underwent a series of epidural steroid injections, but eventually underwent a C5/6 discectomy and fusion. The designated doctor assigned him a 5% whole person impairment in December of 2003.

## DISPUTED SERVICES

Under dispute is the medical necessity of office visits, radiologic exam, electrical stimulation unattended, hot/cold pack therapy, electrical stimulation, manual therapy techniques, neuromuscular reeducation, myofascial release, therapeutic exercises, supplies and materials.

## DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

In review of the patient's record, the conservative care rendered to ___ was utilized to stabilize his condition and attempt to bring his case to a successful conclusion. All treatments

were reasonable and necessary as they were designed to increase function and relieve symptoms so the patient could return to gainful employment. The TWCC Medicine ground Rules state on page 31, 1 (A) 2 that the treatment in question should be "specific to the injury and provide potential improvement of the patient's condition." These treatments were medically necessary as they were intended to "cure or relieve" the symptoms resulting from the compensable injury as outlined in the Texas Workers' Act, section 401.001 (31).

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