

MDR Tracking Number: M5-04-3974-01

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 7-21-04.

The IRO reviewed office visits, unlisted modality (97139), vasopneumatic device therapy, unlisted physical medicine/rehabilitation service (97799) and hot/cold pack therapy from 8-13-03 to 9-5-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO concluded that the office visits, unlisted modality (97139), vasopneumatic device therapy, unlisted physical medicine/rehabilitation service (97799), and hot/cold pack therapy from 8-13-03 to 8-29-03 were medically necessary. The IRO agreed with the previous determination that the office visits, unlisted modality (97139), vasopneumatic device therapy, and unlisted physical medicine/rehabilitation service (97799) from 9-2-03 to 9-5-03 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.

The requestor submitted a letter of withdrawal for code 97010 that was denied as “G - global” for dates of service 8-18-03, 8-27-03, and 8-29-03. Therefore, no fee dispute remains.

### **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) 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 8-13-03 to 8-29-03 in this dispute.

This Order is hereby issued this 7th day of October 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

September 10, 2004

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

Patient:  
TWCC #:  
MDR Tracking #: M5-04-3974-01  
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.

#### RECORDS REVIEWED

- Office treatment notes from Liberty Healthcare 08/13/03 – 09/05/03
- MRI report of the lumbar spine
- EMG/NCV report of the lower extremity
- Orthopedic notes from Dr. G, office notes from Dr. B
- Notes, letters and Impairment report from Dr. K
- MMI report by Dr. G, office treatment notes of Choice Rehabilitation
- Incomplete medical review report form Dr. M.

## CLINICAL HISTORY

This patient suffered injuries to his low back in a work accident on \_\_\_\_\_. He was diagnosed with a herniated lumbar disc with left S1 radiculopathy. Mr. S was rated at MMI on 08/29/04 with a 10% whole person impairment by his treating doctor.

## DISPUTED SERVICES

Under dispute is the medical necessity of office visits, unlisted modality 97139, vasopneumatic device, hot/cold pack therapy and unlisted physical medicine 97799.

## DECISION

The reviewer disagrees with the prior adverse determination regarding the services provided through 08/29/03. These services were found to be medically necessary and appropriate.

Services from 08/30/03 forward were not found to be medically necessary.

## BASIS FOR THE DECISION

There was ample evidence that an injury existed in this case. Objectively, the records indicate that the patient was improving, however the treating doctor performed an Impairment Evaluation on this patient in the middle of this treatment. The patient was found to be at MMI on 08/29/03 with a 10% whole person impairment. According to the treating doctor, this certification of MMI with a permanent impairment means, "the impairment has become static or well-stabilized with or without medical treatment and is not likely to remit despite medical treatment." (AMA, Guides to the Evaluation of Permanent Impairment, Fourth Edition, Glossary.)

This review finds that office visits and physical therapy were both reasonable and necessary up to 08/29/03, which is the date of MMI. All treatment after that date was not medically necessary.

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,