



**Texas Department of Insurance, Division of Workers' Compensation**  
 7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

**MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION**  
**Retrospective Medical Necessity and Fee Dispute**

**PART I: GENERAL INFORMATION**

<b>Type of Requestor:</b> ( x ) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: Vista Medical Center Hospital 4301 Vista Rd. Pasadena, TX 77504	MDR Tracking No.: M5-04-3987-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  Onebeacon Ins. Co./Rep. Box#: 29	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

**PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

Position summary of September 22, 2004 states, "... In this instance, the audited charges that remained in dispute after the last bill review by the insurance carrier were \$109,808.08. However, the provider is unable to determine what portion of the billed charges amounted to the \$14,433.90. Therefore, the Carrier is required to reimburse the remainder of the Workers' Compensation Reimbursement Amount of \$67, 922.16, plus interest..."

Principle Documentation:

1. Table of Disputed Services
2. UB-92
3. Explanation of Benefits
4. Operative Report
5. Discharge Summary
6. Implantable Invoice
7. SOAH Decisions

**PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

Position summary on the 60 form states, "Carrier position remains unchanged per nurse audit of 1-25-04. Carrier has paid per audit."

Principle Documentation:

1. Table of Disputed Services
2. UB-92
3. Explanation of Benefits
4. ESIS letter of October 11, 2004
5. Intracorp letter of December 25, 2003
6. Intracorp Itemized Analysis Worksheet of January 12, 2004

**PART IV: SUMMARY OF DISPUTE AND FINDINGS**

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
10-27-03 – 10-31-03	Inpatient Hospitalization	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	52,330.67

**PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION**

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor **prevailed** on the disputed medical necessity issues.

Based on review of the disputed issues within the request, Medical Review has determined that **medical necessity was not the only issue** to be resolved. The inpatient services, rendered on 10-27-03 through 10-31-03 were found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by Medical Dispute Resolution.

The Respondent denied Rev. Code 278 (Supply/Implants) with "F Reduction According To Medical Fee Guideline."

This dispute relates to inpatient services provided in hospital setting with reimbursement subject to the provisions of Rule 134.401 (Acute Care Inpatient Hospital Fee Guideline). The hospital has requested reimbursement according to the stop-loss method contained in that rule. Rule 134.401(c)(6) establishes that the stop-loss method is to be used for "unusually costly services." The explanation that follows this paragraph indicates that in order to determine if "unusually costly services" were provided, the admission must not only exceed \$40,000 in total audited charges, but also involve "unusually extensive services."

After reviewing the documentation provided by both parties, it **does** appear that this particular admission involved "unusually extensive services." In particular, this admission resulted in a hospital stay of 4 days. The operative report of 10-27-03 indicates the patient underwent a "1. Revision left hemi-lumbar laminectomy, foraminotomy and nerve root decompression, L4-5. 2. Primary right lumbar hemilaminectomy, foraminotomy and nerve root decompression, L4-5. 3. Posterior lumbar interbody instrumentation (two Brantigan cages), L4-5. 4. Posterior lumbar interbody arthrodesis, L4-5. 5. Posterolateral arthrodesis, L4-5. 6. Posterior spinal segmental instrumentation with Monarch rods and screws, L4-5. 7. Harvesting of right posterior iliac crest morselized autograft through a separate fascial incision. 8. Insertion of lumbar epidural catheter at L2 for postop pain management." Postoperatively, the patient suffered mobility problems and "periods of tachycardia." Given the nature of the surgery, the postoperative complications, and the decision of the IRO that finds treatment was medically necessary, the stop-loss method does apply and the reimbursement is to be based on the stop-loss methodology.

In determining the total audited charges, it must be noted that the insurance carrier has indicated some question regarding the charges for the implantables. The requestor billed \$40,932.00 for the implantables. The carrier paid \$11,079.90 for the implantables. The key issue is what amount would represent the usual and customary charges for these implantables in determining the total audited charges. The requestor provided the Commission with documentation on the actual cost of implantables, \$10,089.00

Based on a review of numerous medical disputes and our experience, the average markup for implantables in many hospitals is 200%. This amount multiplied by the average mark-up of 200% results in an audited charge for implantables equal to \$20,178.00.

The audited charges for this admission, excluding implantables (\$40,932.00), and personal items (\$34.65) equals \$68,841.43. This amount plus the above calculated audited charges for the implantables equals \$89,019.43 the total audited charges. This amount multiplied by the stop-loss reimbursement factor (75%) results in a workers' compensation reimbursement amount equal to \$52,330.67 (\$66,764.57- \$14,433.90 (amount paid by respondent).

Based on the facts of this situation, the parties' positions, and the application of the provisions of Rule 134.401(c), we find that the health care provider is entitled to an additional reimbursement amount for these services equal to \$52,330.67.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.308  
28 Texas Administrative Code Sec. 134.401

**PART VII: DIVISION DECISION AND ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the requestor is entitled to additional reimbursement in the amount of \$52,330.67. In addition, the Division finds that the requestor was the prevailing party and is entitled to a refund of the IRO fee. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30-days of receipt of this Order.

Ordered by:

Allen C. McDonald, Jr.

2-9-06

Authorized Signature

Typed Name

Date of Order

**PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. The Division is not considered a party to the appeal.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**

# Z iro C

A Division of ZRC Services, Inc.  
7626 Parkview Circle  
Austin, Texas 78731  
Phone: 512-346-5040  
Fax: 512-692-2924

June 28, 2005

TWCC Medical Dispute Resolution  
Fax: (512) 804-4868

Patient:  
TWCC #:  
MDR Tracking #:  
IRO #:

M5-04-3987-01  
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 proposed care 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 MD board certified and specialized in Orthopedic Surgery. 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**

Notification of IRO assignment, information provided by Requestor, Respondent, and Treating Doctor including:

1. Case note
2. Hospital admission note, 01/27/03
3. History and Physical, Dr. McDonnell, 10/27/03
4. Operative report and record, 10/27/03
5. Discharge orders and summary, Dr. McDonnell, 10/31/03
6. Blood workup sheet, 10/27/03 to 10/30/03
7. Post anesthesia care unit note post-op orders, 10/27/03
8. Nursing notes 10/27/03, 10/28/03, 10/29/03, 10/30/03, and 10/31/03
9. Physical therapy evaluation and progress notes, 10/28/03 and 10/29/03
10. Physician orders, 10/30/03
11. Physician progress note, 10/31/03
12. Intracorp review 10/31/03
13. Peer review, Dr. Strizak, 12/25/03
14. Intracorp physician advisor review, 01/12/04
15. IRO medical dispute resolution letter, 05/19/05

### **CLINICAL HISTORY**

The claimant is a 32-year-old female with a reported date of injury of . The claimant had a history of posttraumatic internal disc derangement and was status post laminectomy of L4-5 on 09/06/00. The claimant did well postoperatively for 3 months then continued to have increasing back and left leg pain. The claimant was admitted to the hospital on 10/27/03 for a recurrent lumbar L4-5 herniated nucleus pulposus per MRI and scheduled for a posterior lumbar fusion and instrumentation of the L4-5 disc. Pre-admission blood work showed a decreased red blood count, hemoglobin and hematocrit, the claimant's chest x-ray was normal and she was typed and cross-matched for 2 units of blood.

Dr. McDonnell examined the claimant prior to surgery on 10/27/03 and noted tenderness of the L4-5 and a decreased sensation of the left L5 and S1. X-rays revealed a 40% collapse of the L4-5 and CT scans indicated a large central disc disruption with complete extravasation and laminectomy defect at the L4-5. A posterior lumbar fusion and instrumentation of L4-5 was performed. Postoperative care included daily laboratory finding regarding the claimant's complete blood count, administration of epidural Fentanyl, monitoring of intravenous fluids, medications, oxygen saturations, tube and dressing drainage, intake and output with use of a Foley catheter, neurovascular, cardiac and respiratory status.

Physical therapy evaluated the claimant on 10/28/03 and instructed the claimant in safety precautions, brace use and log rolling. As of 10/29/03, the claimant was able to walk 600 feet with use of a walker and brace, but still had difficulty with supine to sit and bed mobility. Nursing notes reflected intravenous and epidural infusion, Hemovac and Foley output, drainage and incisional site observations. The claimant did have periods of tachycardia and an elevated temperature, however these were resolved as of 10/29/03. The claimant's epidural line was discontinued on 10/30/03 and oral pain medications were initiated. The claimant had no difficulty voiding once the Foley catheter was removed. The claimant was discharged on 10/31/03.

On 10/31/03, Intracorp reviewed the case and the request for a 2-day stay was approved, however it was made known that the case would be reviewed again on 11/03/03 regarding a 4-day inpatient stay. A 12/25/03 peer review by Dr. Strizak indicated that documentation did not establish medical necessity for the inpatient stay on 10/30/03 due to claimant's ability to ambulate. Four hours of operating room time, two hours of recovery time and four hours of anesthesia time, use of supplies and three spine x-rays instead of two were also questioned. Documentation did establish the medical necessity for surgery however insufficient information was provided to relate it to the work injury of 03/24/00, subsequent injury or pre-existent condition post 09/06/00 laminectomy.

An IRO Medical Dispute Resolution Letter dated 05/19/05 was presented regarding the continue dispute over fees. The carrier felt that the hospital unnecessarily inflated and unbundled charges to exceed the Stop loss threshold. The hospital stated that the carrier was not permitted to retrospectively review medical necessity of a medical bill for treatment/services for which the health care provider has obtained pre-authorization. Per case notes, the following items were in dispute: nursing and operating room services, sterile supply, laboratory, and blood storage/ blood procedures, radiology/diagnostic other, radiology, cardiology, pulmonary function, anesthesia, respiratory services, pharmacy and recovery room charges.

### **DISPUTED SERVICE(S)**

Under dispute is the Retrospective medical necessity of posterior lumbar interbody fusion L4-5, including the following associated hospitalization items: nursing and operating room services, sterile supply, laboratory, and blood storage/ blood procedures, radiology/diagnostic other, radiology, cardiology, pulmonary function, anesthesia, respiratory services, pharmacy and recovery room charges.

### **DETERMINATION/DECISION**

The Reviewer disagrees with the determination of the insurance carrier.

### **RATIONALE/BASIS FOR THE DECISION**

The Reviewer agrees that the posterior lumbar interbody fusion at L4-5 with the associated hospitalization from 10/27/03 through 10/31/03 were reasonable and appropriate. The claimant had the appropriate indications for the proposed surgery. The surgery was done in an appropriate fashion and the post-operative course was reasonable and appropriate with all treatments. The Reviewer can find nothing in any that would suggest excessive use of the hospitalization. The Reviewer agrees that the surgery was indicated and appropriate.

### **Screening Criteria**

1. Specific: Campbell's Operative Orthopedics, Chapter 39, page 2006-2007, 2015-2017
2. General:

In making his determination, the Reviewer had reviewed medically acceptable screening criteria relevant to the case, which may include but is not limited to any of the following: Evidence Based Medicine Guidelines (Helsinki, Finland); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Texas Chiropractic Association: Texas Guidelines to Quality Assurance (Austin Texas); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Mercy Center Guidelines of Quality Assurance; any and all guidelines issued by TWCC or other State of Texas Agencies; standards contained in Medicare Coverage Database; ACOEM Guidelines; peer-reviewed literate and scientific studies that meet nationally recognized standards; standard references compendia; and findings; studies conducted under the auspices of federal government agencies and research institutes; the findings of any national board recognized by the National Institutes of Health; peer reviewed abstracts submitted for presentation at major medical associates meetings; any other recognized authorities and systems of evaluation that are relevant.

### **CERTIFICATION BY OFFICER**

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 by mail or facsimile, a copy of this finding to the TWCC, the Injured Employee, the Respondent, the Requestor, and the Treating Doctor.

Sincerely,  
ZRC Services Inc

  
Dr. Roger Glenn Brown  
Chairman & CEO