

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-1602.M5**

MDR Tracking Number: M5-04-3993-01

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, 133.307 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 07-22-04.

The IRO reviewed chiropractic manipulation, therapeutic exercises, manual therapy technique, office visits, unlisted therapeutic procedure, vasopneumatic device, physical performance test and unlisted cardiovascular service or procedure rendered from 09-19-03 through 03-29-04 that were denied based "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** 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 08-13-04, 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.

CPT code 99080-73 for date of service 10-27-03 is listed on the table of disputed services. No proof of the service being billed to the respondent was submitted, therefore no reimbursement for CPT code 99080-73 for date of service 10-27-03 is recommended. CPT code 99080-73 for dates of service 12-19-03 and 01-07-04 denied with denial code "V". This service is a TWCC required report and the services are therefore reviewed as fee issues. The requestor did not submit relevant information to support delivery of service therefore no reimbursement is recommended.

This Findings and Decision is hereby issued this 4<sup>th</sup> day of October 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

September 15, 2004  
Amended September 27, 2004

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

Patient:  
TWCC #:  
MDR Tracking #: M5-04-3993-01  
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 chiropractor. 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 notes and records of Dr. W with Liberty Healthcare (9/19/03 through 3/29/04), with dates 10/13, 10/16 and 10/01 of 2003 missing), TWCC 1, FEC from 3/29/02004, Dr. B 8/26.2003 and 11/12/03, lumbar MRI from 6/10/2003, ESI records of 9/25/2003, 10/9/2003 and 10/30/2003, Consult report of Dr. H, Records of Dr. E, peer review of Dr. K and Dr. O and the designated doctor report of Dr. M.

## CLINICAL HISTORY

The reviewer notes that there were no records from the treating doctor covering the dates of October 10-14, 16<sup>th</sup> or 21<sup>st</sup>. The patient was injured when he was trapped between some lumber and fork lifts. He sustained a low back injury with radiation into the right groin, testicle and leg. There were very few clinically significant findings and no neurological deficits. Complicating factors were minor. MRI showed a mild disc protrusion and disc desiccation at L4/5 and L5/S1. A series of 3 ESI's provided no benefit. After over 9 months of passive and active care, the patient only demonstrated a work level of light medium. On examination by Dr. B on two different occasions the patient was still at a VAS of 7/10 and worsening symptoms with no significant improvement.

## DISPUTED SERVICES

Under dispute is the medical necessity of chiropractic manipulation, therapeutic exercises, manual therapy technique, office visits, unlisted therapeutic procedure, vasopneumatic device, physical performance test and unlisted cardiovascular service or procedure from September 19, 2003 through March 29, 2004.

## DECISION

The reviewer agrees with the prior adverse determination.

## BASIS FOR THE DECISION

In looking at the totality of this case, one must judge the medical necessity of treatment by the efficacy of prior treatment. It would appear that this patient made no significant progress through the course of treatment. This is evident through Dr. Bs' statements, the patient's high pain levels and no real significant change in his functional status. A reasonable trial of care would be 4 weeks. If there is no significant improvement within that period (>50%) of time then the care should be terminated and further evaluations be done. Therefore, based on the documentation submitted for review, the prior care does not substantiate the services rendered past the initial 4 week trial (June 3 through July 3 of 2003) as it lack significant progress. The clinical records did not substantiate that it was anything more than a simple and uncomplicated case. The reviewer finds that care past July 3, 2003 was unsubstantiated.

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,