

MDR Tracking Number: M5-04-4226-01

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 08-12-04.

The IRO reviewed therapeutic exercises, office/outpatient visits, manual therapy, physical medicine procedures rendered from 08-14-03 through 10-21-03 that were denied based upon "V".

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. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 09-14-04, 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, 97110, 97140 and 97139 on dates of service 10-22-03 and 10-24-03 as well as CPT codes 99080 and 97750-FC on date of service 10-27-03 revealed neither the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not submit proof of convincing evidence of carrier receipt of the resubmission for reconsideration. No reimbursement is recommended.

CPT code 99080-73 date of service 08-27-03 denied with denial code V (unnecessary medical treatment based on a peer review). TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter. The requestor submitted relevant information to support delivery of service. Reimbursement in the amount of \$15.00 is recommended.

CPT code 97110 date of service 10-13-03 and 10-15-03 denied with denial code "F" (reduction according to medical fee guideline). Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one". Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

CPT code 99123, 97140 (2 units) and 97139 on date of service 10-15-03 denied with denial code "F" (reduction according to the medical fee guideline). Reimbursement per the Medical Fee Guideline effective 08-01-03 is recommended in the amount of \$65.21 code 99213 ( $\$52.17 \times 125\%$ ), \$67.80 code 97140 ( $\$27.12 \times 125\% = \$33.90 \times 2$  units) and \$20.19 code 97139 ( $\$16.15 \times 125\%$ ).

CPT code 99213, 97140 and 97139 date of service 10-13-03 denied with denial code "O" (denial after reconsideration. Medical Review cannot determine the original reason for denial. No reimbursement recommended.

This Findings and Decision is hereby issued this 27<sup>th</sup> day of October 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

### **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 in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c) 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 08-14-03 through 10-21-03 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 27<sup>th</sup> day of October 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

October 7, 2004

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

Patient:  
TWCC #:  
MDR Tracking #: M5-04-4226-01  
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

\_\_\_ was injured while repetitively lifting supplies weighing up to fifty pounds while stocking a new \_\_\_\_\_ store in Beaumont. She sought care from Dr. R who treated her conservatively for approximately four months. She changed treating doctors to Dr. W who administered physical medicine and work hardening. An MRI of both the cervical and lumbar spine was performed in November of 2002. Multilevel disc herniations were noted with neuroforaminal stenosis documented at C6/7. Dr. F evaluated the patient and stated she was not a surgical candidate. Dr.

K recommended discontinuation of all treatment and sent her back to work with restrictions. Dr. F examined \_\_\_ and said she should continue with her exercise program. An FCE was performed on March 4, 2003 that found her to be performing at the light physical demand level, but hr job requirements were rated at the medium demand level. A work hardening program was begun and completed. An EMG/NCV study was obtained that documented a C7 radiculopathy. In August 2003 a series of three epidural steroid injections was performed by Dr. D, after which a prescription for post injection therapy was initiated. This was undertaken, and a follow-up FCE was done on October 27, 2003 that found the patient to be at the sedentary level. Dr. R rendered an impairment rating of 19% on October 29, 2003.

#### DISPUTED SERVICES

Under dispute is the medical necessity of therapeutic exercises, office/outpatient visits, manual therapy and physical medicine procedures from 08/14/03 through 10/21/03.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

Upon review of this patient's record, the conservative care rendered this patient in the form of office visits, manual therapy, physical medicine and therapeutic exercises were utilized to bring hr case to a successful conclusion. The treatment was reasonable and necessary, as it was designed to increase function and relieve symptoms so she could return to gainful employment.

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,