

MDR Tracking Number: M5-05-0061-01

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 09-02-04.

The IRO reviewed neuromuscular stimulator, office visits and electrical stimulation rendered from 09-04-03 through 10-07-03 that were denied based upon "U".

The IRO determined that the neuromuscular stimulator and electrical stimulation **were not** medically necessary. The IRO determined that the office visits **were** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of 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 09-24-04, 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 codes G0283, 97010 and HCPCS codes A4556 and E0230 on date of service 09-04-03 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not submit convincing evidence of carrier receipt of providers request for EOBs. Per Rule 133.307(e)(3)(B) the carrier did not provide EOBs as required. These services will not be reviewed by the Medical Review Division and no reimbursement recommended.

CPT code G0283 dates of service 09-05-03 and 09-12-03 denied with denial code "F" (payment reduced in accordance with TWCC fee guideline's maximum allowable reimbursement). Reimbursement per the Medicare Fee Guideline effective 08-01-03 is \$14.91 ($\$11.93 \times 125\% = \14.91). The carrier has paid a total of \$29.58. Additional reimbursement is recommended in the amount of \$0.24 ($\29.82 minus payment of \$29.58).

CPT code 97140 dates of service 09-10-03 and 09-24-03 denied with denial code "D" (payment denied this is an identical processed charge). Since neither party submitted an original EOB review will be per Rule 134.202. Reimbursement is recommended per the Medicare Fee Guideline effective 08-01-03 in the amount of \$61.80 ($\$24.72 \times 125\% = \$30.90 \times 2 \text{ DOS}$).

HCPCS code A4556 date of service 09-16-03 denied with denial code "F" (fee guideline). The carrier made no payment. Reimbursement is recommended per the Medicare DMEPOS 2003 Fee Schedule in the amount of \$15.18 ($\$12.14 \times 125\%$).

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 Medicare program reimbursement methodologies effective 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 09-04-03, 09-05-03, 09-08-03, 09-10-03, 09-12-03, 09-16-03 and 09-24-03 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 Findings and Decision and Order is hereby issued this 6th day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

October 26, 2004

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

Patient:

TWCC #:

MDR Tracking #:

IRO #:

M5-05-0061-01

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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

Included for review were office notes and records of Brad Burdin, D.C. from 9/4/03 to 9/20/04 (with gaps), J. Michael Frieberg, M.D. 9/4/03 & 10/7/03, David Hirsch, D.O. 10/28/03, Raul Pelaez M.D. 9/4/03 & 10/13/03.

CLINICAL HISTORY

___ was transporting a patient on a stretcher when he injured the right portion of his low back. Radiation was denied. Pain was in the lumbo-sacral area, right S1 and right buttocks. There were no neurological findings on exam. EDX testing was negative, x-rays were negative except for some slight degenerative changes. The MRIs were the same except for a small HNP at L2/3 and L4/5. ___ was treated with conservative chiropractic care (passive and active) and released to MMI on 1/6/04 with an impairment of 5%.

DISPUTED SERVICES

Under dispute is the medical necessity of neuromuscular stimulator, office visits and electrical stimulation.

DECISION

The reviewer agrees with the prior adverse determination regarding the neuromuscular stimulator and G0283 EMS unattended on 10/07/03.

The reviewer disagrees with the prior adverse determination regarding the disputed office visits.

BASIS FOR THE DECISION

A NMS unit was administered on 09/04/04 at the patients initial office visit supposedly for pain management. It is highly unusual and suspect that one of these units is prescribed on the fist visit, especially when he received interferential current on that visit and continued to receive it on subsequent visits. Also, the documentation stated that it was given for pain management. These units are given for neuromuscular problems such as atrophy, not pain control. No atrophy was documented. The patient was also seen on the same day by a medical doctor and prescribed medications for pain. The documentation provided does not establish the medical necessity of this unit at this time.

With regards to office visits (99213) it is appropriate and reasonable to monitor a patient's progress and care, especially in the initial stages. Medical records for these dates of service support the level of E&M code submitted.

With regards to G0283 EMS unattended on 10/7/03 this would not be appropriate if the patient was treating concurrently with a home unit. Continued use of passive modalities at this juncture is unproven and should be discontinued.

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