

MDR Tracking No.: M5-05-0663-01

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 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. The dispute was received on 10-26-04.

Per Rule 133.308(e)(1) dates of service 06-27-03 through 09-26-03 were not timely filed and will not be part of the review.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. 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 amount of reimbursement due from the carrier equals **\$276.87**.

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 the only issue** to be resolved. The Vicodin/Hydrocodone/APAP were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees for dates of service 10-27-03 through 12-30-03 totaling **\$276.87** in accordance with the TWCC reimbursement methodology for pharmaceutical services for dates of service after August 1, 2003 per Commission Rule 134.403(a) to the requestor within 20 days of receipt of this order.

This Findings and Decision and Order are hereby issued this 28th day of April 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

Z iro C

A Division of ZRC Services, Inc.

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Austin, Texas 78731

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AMENDED DECISION

April 22, 2005

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

Patient: _____
TWCC #: _____
MDR Tracking #: M5-05-0663-01
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 board certified and specialized in physical medicine and rehabilitation. 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

1. Notification of IRO assignment, which includes several prescriptions, some of which were paid and some of which were not, and the medical record review addendum by Charles R. Crane, M.D.
2. Records from Dr. Blau of Tyler, Texas including office summaries from November 4, 2003 through July 6, 2004.

- Copies of letters from November 2004 from Flahive, Ogden, and Latsen. Their package includes Dr. Crane's letter, the prescription notices, and a letter from the attorneys indicating their request that a dispute be dismissed.

CLINICAL HISTORY

The history is obtained from the medical records primarily of Dr. Crane and Dr. Blau. This patient apparently injured his back on ___ and has continued primarily with conservative treatment. By the records I have available, he has had no surgery, although I do not have a thorough history going back to 2000. The patient has continued to have pain in the range of 8/10-9/10 involving his lower back and bilateral lower extremity. I see no indication that he has had surgery. Discography has been recommended but not done. He has had injections at least on 1 occasion, and that was a medial branch block on the right of sacral ala and transverse processes of L5, L4, and L3. That procedure was dated October 28, 2003. The patient has also undergone therapy. He reached maximum medical improvement according to Dr. Crane's addendum somewhere approximately in June 2003. Dr. Crane's opinion was that after the date of maximum medical improvement, the patient should be considered to be receiving treatment only for ordinary disease of life and not for the injury. None of the records indicate that the patient has ever had resolution of his lower back and radicular symptoms. I do not have any scans or other details in which to identify the diagnosis more thoroughly. However, the patient apparently has essentially an unbroken history of lower back and leg complaints since the injury of October 18, 2000.

DISPUTED SERVICES

Under dispute is the medical necessity of the dispute is over the continued provision of medication, specifically Vicodin ES or hydrocodone/APAP (which is essentially the same medication) by prescription for ongoing complaints of pain.

DECISION

The reviewer disagrees with the determination of the insurance carrier.

BASIS FOR THE DECISION

The Reviewer disagree's with the opinion of Dr. Crane and apparently accepted by the insurance carrier in this case that this patient's pain is secondary to ordinary disease of life. This gentleman's problem occurred at age 47, which is a prime time in the natural history for a patient to have a disc herniation. Generally when a patient has prolonged pain after injury, it relates to a disc injury and not to the degenerative changes that appear on x-ray. Degenerative arthritis is a natural-occurring phenomenon, which is not necessarily painful. Generally pain will persist if there has been a significant injury to the disc that is not addressed and resolved either by conservative measure or by surgery. The introduction of surgery into the case often will lead to chronic pain, which comes under the category of failed back syndrome, but the Reviewer's opinion is that it is often secondary to a poor exercise regimen. In any event, this patient still has significant pain that is not of the level one would expect from the normal disease of life. Hence, the only event that is associated with that pain historically is the event that led to this injury. In any event, continued use of pain medications, which the patient indicates provides some relief, is appropriate. Dr. Crane's opinion is poorly founded on medical facts. To make a statement that

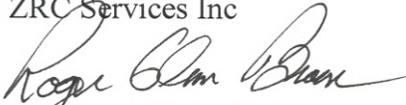
the pain is related to ordinary disease of life has no support in any medical literature that I am aware of. This is not ordinary disease of life but continued complaints of pain, which are apparently reasonable, resolved with the use of medication. This is something that will require continued treatment, perhaps on a permanent or lifetime basis.

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 a copy of this finding by facsimile to the TWCC.

Sincerely,
ZRC Services Inc

A handwritten signature in cursive script that reads "Roger Glenn Brown".

Dr. Roger Glenn Brown
Chairman & CEO