

MDR Tracking #M5-05-1093-01

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. This dispute was received on 11-19-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that hot-cold pack therapy, therapeutic exercises, therapeutic activities, chiropractic manipulative treatment, manual massage, ultrasound, electrical stimulation-unattended, office visit and neuromuscular re-education from 11-19-03 through 4-7-04 were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved.

On 4-8-05 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.

Regarding CPT code 97124 on 11-19-03: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement according to Medicare program reimbursement methodologies of \$25.70.**

Regarding CPT code 95831-59 on 11-26-03 (8 units) and 1-5-04 (7 units): Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge. **Recommend reimbursement of \$411.90 (\$219.68 +\$ 192.22).**

**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 totaling \$437.60 from 11-19-03 through 1-5-04 outlined above as follows:**

- In accordance with Medicare program reimbursement methodologies for dates of service on or 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 and Order is hereby issued this 3<sup>rd</sup> day of May, 2005.

Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision

# Z iro C

**A Division of ZRC Services, Inc.**

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April 1, 2005

TWCC Medical Dispute Resolution  
VIA FAX (512) 804-4868

Patient: \_\_\_\_\_  
TWCC #: \_\_\_\_\_  
MDR Tracking #: M5-05-1093-01  
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 that 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 physician licensed in 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

From Respondent:

- Correspondence 01/17/05
- Chiropractic peer review 10/22/03
- Motion to dismiss 12/28/04

From Requestor:

- TWCC 69 02/01/02 & 03/02/04
- Evaluations, impairment ratings & reports 11/27/02 – 05/03/04
- Daily notes 10/02/02 – 10/04/04

From Neurosurgeon – Schickner:

- Office notes & correspondence 04/19/02 – 11/20/02
- Operative report 06/28/02

From Treating Doctor:

- Office notes, PPE & FCE 12/16/01 – 12/17/02

From Neurosurgeon – Rosenstein:

- Evaluations & office notes 02/10/03 – 09/01/04

From Orthopedic Surgeon – Blair

- Independent medical evaluation 01/13/03

From Neurosurgeon – Veazey:

- NCV/EMG study 05/22/02

From Cardiologist – Pitts:

- Consultation 10/08/02

From Orthopedic Surgeon – Reeve:

- Consultation 02/20/02

Radiology Reports 12/04/01 – 02/18/04

#### CLINICAL HISTORY

According to the records provided for review, this claimant sustained work-related injuries to her head, neck, left shoulder, left hip and low back regions on \_\_\_\_\_. At the time of injury, she was taken to a hospital, evaluated (examination and diagnostic studies) and discharged. Nearly a month after the date of injury the claimant was assessed and determined to be at MMI and given a 0% impairment (11/06/01). In the following two months the claimant obtained MRI studies of the left shoulder (12/04/01) and cervical spine (01/15/02). These studies indicated normal variance and/or mild degenerative changes. Then a designated doctor evaluated the claimant and determined that she was not at MMI (02/01/02). Later in this same month (02/20/02), an evaluating doctor indicated, “...it is difficult to tell for sure what is going on. This is a confusing picture according to her symptoms...”.

Two separate neurosurgeons evaluated the claimant, one of whom conducted electrodiagnostic testing, and the results indicated to be “within normal limits”. After this, the claimant apparently underwent a barrage of diagnostic imaging (myelograms, CT’s, x-rays, etc.), all of which essentially indicated normal findings. These findings/indications would seem to be expected, according to previous examinations and diagnostic testing. Subjective complaints by the claimant persisted with minimal no correlating clinical evidence (objective).

At any rate, doctor office visits/treatment (ESI's, medication, PT, etc.) and additional diagnostic testing (EMG/NCV, CT's, MRI's, etc.) was continued. Eventually, this claimant obtained arthroscopic surgery on her left shoulder (08/22/02) and cervical fusion (07/10/03). Doctor office visits/treatment (medication, PT, chiropractic, etc.) and more diagnostic testing (x-rays, EMG/NCV, etc.). According to the records provided, she received 200+ chiropractic visits from 10/02/02 thru 08/16/04. There were 140 visits prior to the disputed dates of service (11/19/03 – 094/07/04 – 49 visits). However, the daily treatment notes starting from 03/19/03 indicate objective documentation of “reduced motion” and/or segmental “aberrant motion”, the majority of documentation was highly subjective of “pain”. This documentation was indicated prior to the cervical surgery but remained relatively identical from 03/19/03 – 08/16/04 (unchanged).

#### REQUESTED SERVICE

Hot/cold pack therapy (97010), therapeutic exercises (97110), therapeutic activities (97530), chiropractic manipulative treatment-spinal 1-2 & 3-4 regions (98940/98941), manual massage (97124), ultrasound (97035), electrical stimulation-unattended (G0283), level III office visit (99213), and neuromuscular re-education (97112) during the period of 11/19/03 – 04/07/04.

#### DECISION

The reviewer agrees with the determination of the insurance carrier and finds that the treatment and services in dispute as stated above were not medically necessary in this case.

#### BASIS FOR THE DECISION

The documentation provided failed to demonstrate objective clinical findings or objective functional improvements warranting medical necessity for the dates and procedures in dispute.

Hot/cold pack therapy is primarily for reduction of muscle spasms and decrease of swelling. These types of modalities can also reduce pain. There was no documentation of inflammation, edema or muscle spasms. There were no clinical findings warranting the utilization of this particular procedure.

Therapeutic exercises are to develop strength and endurance, range of motion and flexibility. These activities may include strengthening regions that are deficient or stretching regions that are taut, in spasm or restricted, etc. The documentation since 03/19/03 demonstrated essentially identical findings, which reflects no change or functional improvements. There were no clinical findings warranting the utilization of this particular procedure.

Therapeutic activities may include strengthening regions that are deficient or stretching regions that are taut, in spasm or restricted, etc. Documentation since 03/19/03 demonstrated essentially identical findings, which reflects no change or functional improvements.

Chiropractic manipulation is for improving segmental (spinal joints, extremity joints, etc.) motion that is restricted, fixated, hypomobile, etc. There were spinal regions indicating, which would support the necessity for this procedure. However, documentation since 03/19/03 demonstrated essentially identical findings, which reflects no change or functional improvement.

Massage is for reduction of muscle spasms or stretching muscular regions that are taut, in spasm or restricted, etc. There were no myospasms documented or indicated. There were no clinical findings warranting the utilization of this particular procedure.

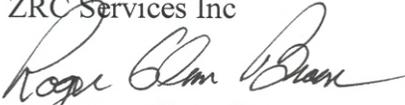
Ultrasound is for reduction of muscle spasms, decreasing swelling, reducing scar tissue and increasing blood flow in order to increase the healing process. This type of modality can also reduce pain but this is secondary to the above noted conditions/factors. There were not clinical findings warranting the utilization of this particular procedure.

Electrical muscle stimulation-unattended is for reduction of muscle spasms and decreasing swelling. This type of modality can also reduce pain, but this is secondary to the above-noted conditions/factors. There was no documentation of inflammation, edema or muscle spasms. There were no clinical findings warranting the utilization of this particular procedure. 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.

Sincerely,

ZRC Services Inc

A handwritten signature in black ink, appearing to read "Roger Glenn Brown". The signature is written in a cursive style with a large initial "R".

Dr. Roger Glenn Brown  
Chairman & CEO

RGB:dd