

MDR Tracking #M5-05-1510-01

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 01-24-05.

The IRO reviewed therapeutic exercises, gait training, electric stimulation, neuromuscular re-education, office visit level III rendered from 03-09-04 through 04-05-04 that were denied based upon "U".

The IRO determined that the therapeutic exercises, neuromuscular re-education and office visit **were** medically necessary. The IRO further determined that the gait training and electric stimulation **were not** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of 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 amount to be reimbursed for medical necessity issues equals **\$1,197.56**.

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 02-17-05, 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.

CPT code 99080-73 date of service 03-23-04 denied with denial code "U" (unnecessary treatment without peer review). The TWCC-73 is a required report per Rule 129.5 and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter. Reimbursement is recommended in the amount of **\$15.00**.

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 for dates of service 03-09-04 through 04-05-04 totaling **\$1,212.56** in accordance with the 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 Findings and Decision and Order are hereby issued this 20th day of April 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

Z iro C

A Division of ZRC Services, Inc.
7626 Parkview Circle
Austin, Texas 78731
Phone: 512-346-5040
Fax: 512-692-2924

April 6, 2005

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

Patient: _____
TWCC #: _____
MDR Tracking #: M5-05-1510-01
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 physician and specialized in chiropractic care. 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

Medical records from the requestor, office notes and Lumbar ESI notes by Fernando Avila M.D., Orthopedic notes by Sanjay Misra M.D., notes from treating doctor – Michael Faber D.C., Physical Performance Evaluation dated 4/1/2004, EMG/NCV notes, Lumbar MRI notes, Orthopedic notes and surgical notes by Matthew Lenderman M.D., Work Hardening Assessment notes.

CLINICAL HISTORY

This work injury took place . The patient was lifting a device that lowers caskets onto the back of a trailer when he fell backwards with the device in his hands, injuring his low back.

DISPUTED SERVICES

Under dispute is the medical necessity of 97110 – Therapeutic Exercises, 97116 – Gait Training, 97032 – Electric Stimulation, 97112 – Neuromuscular Re-education, 97213 – Office visit level III for dates of services, 3/9/2004 through 4/5/2004.

DECISION

The reviewer partially agrees with the determination of the insurance carrier in this case. Approve Therapeutic exercises, neuromuscular re-education, and office visit level III. Do not approve of gait training and electric stimulation.

BASIS FOR THE DECISION

Given the mechanism of injury, and the objective data found on the Lumbar MRI and lower extremity NCV/EMG, I feel that the time frame of the disputed services are indeed medically necessary. These services are the appropriate course of treatment prior to Work Conditioning and Work Hardening. I do not feel that gait training and passive modalities such as electrical stimulation is medically necessary at this time. Passive modalities this late post injury can cause dependency on both the modality and the doctor. It would have been prudent to put this patient into an active rehab program then progress into a work conditioning/ work hardening program. An FCE would then determine whether his PDL met his PDC.

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 black ink, appearing to read "Roger Glenn Brown". The signature is fluid and cursive, with a large initial "R" and "B".

Dr. Roger Glenn Brown
Chairman & CEO

RGB:dd