

MDR Tracking Number: M5-05-1808-01

Previous #: M5-04-3258-01

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 (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 5-27-04.

CPT codes 97545 and 97546 for dates of service 11-24-03, 11-25-03, 11-26-03, 12-11-03, 12,12-03, 12-22-03, 12-23-03, 12-24-03, 12-29-03 and CPT code 99213 for date of service 12-29-03 were withdrawn by the Requestor and will not be a part of this review.

This AMENDED FINDINGS AND DECISION supersedes all previous Decisions rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 1-25-05 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 02-28-05. An Order was rendered in favor of the Requestor. The Respondent appealed the Order to an Administrative Hearing on 2-11-05 because an error was made in calculating reimbursement.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The work hardening, range of motion testing, the physician conference and work hardening-each additional hour from 7-21-03 through 2-13-04 **were found** to be medically necessary. The office visits, therapeutic activities and exercises, physician `educational service-group and unusual service from 7-21-03 through 2-13-04 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute 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 7-14-04 the Medical Review Division submitted a Notice to the 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 99080-73 for date of service 7-23-03: Neither the carrier nor the requestor provided EOB's. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). **No reimbursement recommended.**

Regarding CPT code 99080-73 for date of service 11-4-03 and 11-17-04: Neither the carrier nor the requestor provided EOB's. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). **No reimbursement recommended.**

Regarding CPT code 99078 for date of service 11-5-03: Neither the carrier nor the requestor provided EOB's. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). **No reimbursement recommended.**

Regarding CPT code 95851 for date of service 11-17-03: The carrier denied this service with a "G" – Unbundling – This procedure is included in the work hardening performed on the same day. **No reimbursement recommended.**

Regarding CPT code 97002 for date of service 11-25-03: Neither the carrier nor the requestor provided EOB's. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). **No reimbursement recommended.**

Regarding CPT codes 97545-WH, 97546-WH, 97002, 99213 and 99361 for dates of service 12-08-03 through 12-12-03: Neither the carrier nor the requestor provided EOB's. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). **No reimbursement recommended.**

CPT code 97750-FCE for date of service 1-22-04 was denied by the carrier with an R – extent of injury. However, there is no TWCC 21 on file with the Commission supporting this denial. R was the only issue raised by the carrier. **Recommend reimbursement of \$147.76. (\$36.94 MAR x 4 units)**

CPT code 99213 for dates of service 1-19-04 and 1-22-04 was denied by the carrier with an R – extent of injury. However, there is no TWCC 21 on file with the Commission supporting this denial. R was the only issue raised by the carrier. 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 \$132.38. (\$66.19 x 2 DOS)**

The carrier denied CPT Code 99080-73 on date of service 2-13-04 with a R- extent of injury. However, there is no TWCC 21 on file with the Commission supporting this denial. R was the only issue raised by the carrier. 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 \$13.50.**

Pursuant to 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 as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003; in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c); in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(6); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Amended Decision is applicable for dates of service 7-21-03 through 2-13-04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Amended Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Amended Decision and Order is hereby issued this 3rd day of March, 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

August 18, 2004
Amended December 1, 2004

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

Patient: _____
TWCC #: _____
MDR Tracking #: M5-04-3258-01
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

The documentation presented states Mr. Martin sustained a work-related injury on 05/06/02 when he was driving a golf cart and was struck from the passenger side. He patient sought care at Town East Rehab and was referred for an MRI of the right shoulder on 05/0902 that displayed a rotator cuff with some arthritic changes within the AC joint. The patient did undergo surgery of the shoulder on 05/16/02 with James McConnell MD that appeared to be a Mumsford procedure. The records reflect the patient was still symptomatic and therefore was referred back to Dr. McConnell on 10/28/02.

The patient was referred for a second MRI that displayed a supraspinatus tear with moderate tendinosis involving the infraspinatus and subscapularis musculature. The patient did undergo a second surgery on 01/22/03. The records reflect the patient did undergo post-operative physical therapy for his work-related injury. The records also reflect the patient did undergo work conditioning and work hardening for his work-

related injury. He was a designated doctor on 02/11/04 that stated the patient was at MMI with a 7% whole person impairment rating. The records include correspondence from Erin Hacker Stanley, Dr. Weeks, and a peer review from Dr. Dean Smith.

DISPUTED SERVICES

Under dispute is the medical necessity of work conditioning each additional hour (97545-WC and 97546-WC) from 11/3/03 through 11/14/03, office visits, therapeutic activities, therapeutic exercises, physician education services rendered to patients in a group setting, supplies and materials, range of motion measurements, conference by physician, an unlisted special procedure or report and work hardening and work hardening each additional hour from 07/21/03 – 02/13/04.

DECISION

The reviewer agrees with the prior adverse determination regarding office visits, therapeutic activities and exercises, codes 99078 and 99199 for the disputed dates of service.

The reviewer disagrees with the prior adverse determination regarding work hardening, range of motion testing and the physician conference coded 99361 and work conditioning each additional hour (97545-WC and 97546-WC).

BASIS FOR THE DECISION

Based on the records provided for review, current studies out of Madigan Medical Center, Vanderbilt University and Orthopedic Technology research department. All of these resources concur that this type of condition, based on the procedure performed, would warrant care for six to twelve months, especially for a condition that had pathology which required surgical intervention twice. The therapeutic activities and therapeutic exercises had all been exhausted at the time of the disputed dates of service. The work hardening was reasonable based on progression within the program and the patient's job demand level.

This determination also falls within the Mercy Fee Guidelines (for a trial of treatment), RAND studies, and the Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters.

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