

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-05-6799.M5

MDR Tracking Number: M5-05-2191-01

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 12-07-04.

Date of service 11-17-03 per Rule 133.308(e)(1) was not timely filed and will not be part of this review.

The IRO reviewed chiropractic manipulative treatment (spinal 3-4 regions), special reports, office visits, spontaneous nystagmus (including gaze), positional nystagmus test, noninvasive ear of pulse oximetry for oxygen saturation, single determination, hot/cold pack therapy rendered from 02-06-04 through 07-01-04 that were denied based upon "V".

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 the chiropractic manipulative treatment (spinal 3-4 regions), special reports, office visits, spontaneous nystagmus (including gaze), positional nystagmus test, noninvasive ear of pulse oximetry for oxygen saturation, single determination, hot/cold pack therapy were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 04-11-05, 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.

Review of CPT code 99213-25 dates of service 01-16-04 and 02-06-04 revealed the EOB to show no denial code and to indicate payment had been made. Contact was made with the Requestor who confirmed no payment has been made. Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation to support delivery of service. Per Rule 134.202(c)(1) reimbursement is \$61.98 per date of service (\$49.58 X 125%). The

requestor billed \$48.00 per date of service. Reimbursement is recommended in the amount of **\$96.00 (\$48.00 X 2 DOS)**.

CPT code 92531-25 dates of service 01-16-04 and 02-06-04 denied with denial code "F" (fee guideline MAR reduction). The carrier has made no payment. Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation to support delivery of service. Reimbursement is recommended in the amount of **\$32.00 (\$16.00 X 2 DOS)**.

CPT code 92532-25 dates of service 01-16-04 and 02-06-04 denied with denial code "F" (fee guideline MAR reduction). The carrier has made no payment. Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation to support delivery of service. Reimbursement is recommended in the amount of **\$44.00 (\$22.00 X 2 DOS)**.

CPT code 98941 date of service 01-16-04 denied with denial code (fee guideline MAR reduction). The carrier has made no payment. Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation to support delivery of service. Reimbursement per Rule 134.202(c)(1) is \$43.64 (\$34.91 X 125%). The requestor billed \$42.60 therefore reimbursement is recommended in the amount of **\$42.60**.

Review of CPT codes 99213-25, 92531-25, 92532-25, 94760-25, 98941-25 date of service 05-28-04, code 99080 date of service 06-02-04, codes 99213-25, 94760-25, 98941-59 date of service 05-19-04, codes 99213-25, 92531-25, 92532-25, 94760-25, 98941-59 dates of service 05-24-04 and 05-26-04 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 the providers request for EOBs. No reimbursement is recommended.

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 01-16-04 and 02-06-04 totaling \$214.60 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 5th day of May 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

Amended Decision

May 5, 2005
May 3, 2005

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

Patient: _____
TWCC #:
MDR Tracking #: M5-05-2191-01
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 board certified and specialized in chiropractic medicine. 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. Correspondence from the Center for Health and Chiropractic, Clem Martin, D.C.
2. Request as Rationale for Reimbursement from Clem Martin, D.C.
3. Table of disputed services and daily treatment notes, HCFA forms for the disputed dates of service from Clem Martin, D.C.
4. Employer Report of Injury dated ____.
5. Correspondence and daily treatment notes from Clem Martin, D.C.

6. RME from Venzel McMaster dated 08/23/02.
7. MRI scan reports.

CLINICAL HISTORY

The claimant was injured on the job on _____. The claimant injured her lower back while stooping working under the counter cleaning a glue pot. She initially began treatment with Dr. Martin. Due to persistent symptoms, she was referred for an MRI scan of the lumbar spine, which was initially read as normal. She was also referred to Richard Dyer, M.D., on 10/22/96, who recommended and performed a series of epidural steroid injections. She reported recurrent lower back and buttock symptoms with the pain extending into the left lower extremity. A repeat MRI scan was performed with contrast, which revealed a broad-based herniated disc at L4/L5 on top of degenerative changes. The claimant was reported to have reached maximum medical improvement, which was determined by designated doctor Venzel McMaster, M.D. on 06/19/97, and she was assigned a 10% whole person impairment rating. The claimant continues to treat with chiropractic care with Dr. Martin.

DISPUTED SERVICES

Under dispute is the medical necessity of chiropractic manipulative treatment (spinal 3-4 regions), special reports, office visits, spontaneous nystagmus (including gaze), positional nystagmus test, noninvasive ear of pulse oximetry for oxygen saturation, single determination, hot/cold pack therapy between the dates 2/6/04 thru 7/1/04.

DECISION

The reviewer agrees with the determination of the insurance carrier.

BASIS FOR THE DECISION

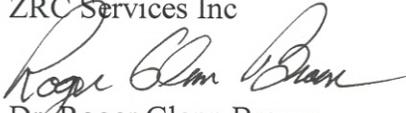
The clinical documentation does not support the medical necessity nor the performance of the level of service of a 99213 on each office visit. The CPT code book defines a 99213 E&M code as an expanded problem-focused history, problem-focused examination, and medical decision making of low complexity. Firstly, the clinical record does not support the need for this level of service at each office visit, as there is no necessity to perform this level of care. Regarding the billing of 92531, testing for spontaneous nystagmus, and 92532, positional nystagmus, the Reviewer sees absolutely no need whatsoever for the performance of these tests for a lumbar spine injury. The Reviewer is quite taken aback that these services are being billed for a lumbar spine injury. It is the Reviewers opinion that there is absolutely no necessity whatsoever for the performance for testing of spontaneous or positional nystagmus. This patient has also undergone a protracted course of chiropractic manipulation without documented long term therapeutic benefit. The Reviewer sees no need for the performance or billing of 98941, spinal manipulation. Regarding the billing of 94760, noninvasive ear or pulse oximetry for oxygen saturation determination, the Reviewer is also in complete agreement with the insurance carrier that this level of service billed is not medically necessary. This test in no way, shape, or form would be necessary for treatment of a lumbar spine injury by a chiropractor. There is also no necessity to support the billing of a 99214 E&M code.

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



Dr. Roger Glenn Brown
Chairman & CEO