

December 2, 2004

David Martinez  
TWCC Medical Dispute Resolution  
MS-48  
7551 Metro Center Drive, Suite 100  
Austin, TX 78744-1609

Patient:  
TWCC #:  
MDR Tracking #: M2-05-0308-01  
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 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 licensed Medical Doctor board certified and specialized in Neurology. 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

Records for review included the appeal letter from Dr. R dated 9/21/04, the patient's follow-up visits to Dr. R dated 10/5/04 and 10/19/04, and the consultation dated 9/2/04.

#### CLINICAL HISTORY

Dr. R, a neurosurgeon, evaluated this patient on September 2, 2004. He stated that she came into the office because of increasing pain of her hips and back and her right radiculopathy worsened. He had been treating her in the past for low back pain and lumbar radiculopathy. She had a lumbar laminectomy and surgery on L4/5 and effusion, which he said was solid. The last CT scan of her spine was on February 24, 2004, which showed a disc bulge at L3/4, but the effusions were solid at L4/5 and L5/S1. He also treated her with trigger point injections and a Medrol dose pack with some improvement. At the time of the September 2, 2004 consultation she was on Oxycontin, 30 mg. She also wanted to return to taking Lortab, which was working better. She was also on PRN Soma and Neurontin, 1200 mg a day. His examination showed her to have tenderness in both hips. Straight leg raising was positive on the right at 80 degrees producing back pain. Her motor strength and deep reflexes are normal. There were positive facet signs on

back movements. His diagnosis was possible lumbar radiculopathy worsening and also possible bursitis in the hip. He recommended that they increase her Oxycontin to one tablet twice a day. He also felt that she was depressed and he recommended that she increase the Lexapro to 20 mg a day. He also felt that she should have an EMG of the lower extremities, particularly the right side because of her increasing pain in her back and right leg.

Dr. R wrote a note on September 14, 2004 in which he discussed with Dr. H that the patient, \_\_\_\_, had increasing radicular symptoms and recommended an EMG. This was denied by the carrier because he felt that they thought this was a repeat EMG. He stated in his letter that a previous EMG that was done was not recent.

The patient saw Dr. R again on October 5, 2004. She continued to have low back pain, which was worsening. The pain was worse in both legs, the right worse than left. The pain was 8 out of 10. EMG had not been done since it was denied. The fusion looked good and solid at L4/5 and L5/S1. The examination showed tenderness over the lumbar spine with trigger points. The lumbar spine range of motion was 45 degrees of flexion, 10 degrees extension and lateral bending 15 degrees. Straight leg raising was negative and motor examination was normal. Reflexes were 1+ in the knee and absent in the ankle. His working diagnosis was a lumbar radiculopathy facet syndrome and he recommended lumbar trigger point injections and also an EMG study that had been requested and denied.

Dr. R saw the patient on October 19, 2004. The same symptoms continued and the EMG had not been done. The CT scan did show disc bulges at L3/4 and 4/5 and fusion L5/S1. The examination showed the same abnormal range of motion of the lumbar spine. The muscle strength and reflexes were good except the reflexes in the ankles were absent. The diagnosis was still lumbar radiculopathy and facet syndrome. She was also getting Lidoderm patches and Carisoprodol. There is a letter from Dr. R to "Whom it may concern" on September 21, 2004, that the patient was continuing to have back pain and recommending an EMG due to the worsening symptoms. He stated that an EMG had been ordered in March 2004, but never done.

#### REQUESTED SERVICE

An EMG/NCV of the lower extremities is requested for this patient.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

Dr. R documented that this patient was having more pain in her back and right leg. He had been following her in the past for a back problem that ultimately required surgery, but had been stable. It appears now, according to the most recent evaluation in September of 2004, that this patient is having radicular symptoms. There was positive straight leg raising, more pain subjectively, more abnormal disturbances in the range of motion of the lumbar spine. There also were absent ankle reflexes. Previous records to note whether the ankle reflexes were there in the past were unavailable.

The Zirop reviewer finds that an EMG would be reasonable and necessary at this time. The nerve conduction studies would provide information on whether the absent ankle reflexes and her

sensory symptoms are due to a peripheral neuropathy or whether this could be a bilateral S1 radiculopathy. The treatment of each of these conditions would be significantly different. Also, the needle exam would give us an idea of whether there is any nerve damage, either coming from the lumbar spine to both legs or distally in the legs from a possible neuropathy.

Therefore, the reviewer finds that an EMG and nerve conduction studies would be helpful in the diagnosis of this patient, and he agrees that the recommendation is reasonable as it relates to this patient's symptoms.

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 by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

President/CEO

### **YOUR RIGHT TO REQUEST A HEARING**

Either party to medical dispute may disagree with all or part of the decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision**, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

**If disputing other prospective medical necessity (preauthorization) decisions**, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk  
P.O. Box 17787  
Austin, Texas 78744  
Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

President/CEO

**I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 2nd day of December, 2004.**

**Signature of Ziroc Representative:**

**Name of Ziroc Representative:**