

MDR Tracking Number: M5-03-0816-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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.

The IRO reviewed chiropractic treatment rendered from 11-29-01 to 5-21-02 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(q)(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.

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 February 27, 2003, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
11-29-01 11-29-01 2-12-02 2-12-02 5-21-02 5-21-02	95851	\$40.00	\$0.00	G	\$36.00	CPT Code description Medicine GR (I)(E)(4)	ROM is global to FCE's, but not to the office visit.  ROM reports support service reimbursement is recommended of 6 dates X \$36.00 = \$216.00.

11-29-01 2-12-02 5-21-02	97750MT	\$172.00	\$0.00	G	\$43.00 / body area	Medicine GR (I)(E)(3)	Muscle testing is global to FCE's, but not to the office visit.  Upper extremity muscle testing reports support billing of testing of one body area. Reimbursement is recommended per MFG of \$43.00 per body area X 3 dates = \$129.00.
TOTAL							The requestor is entitled to reimbursement of \$345.00.

**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 in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 11-29-01 through 5-21-02 in this dispute.

In accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee.

This Decision and Order is hereby issued this 22<sup>nd</sup> day of August, 2003.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision

REVISED

January 14, 2003

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

Patient:  
TWCC #:  
MDR Tracking #: M5-03-0816-01  
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 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

\_\_\_ injured his right wrist and elbow when he lost his balance and fell from his truck during his job duties as a commercial tractor trailer truck driver. He was diagnosed with a grade II right wrist sprain and a fracture of the right elbow. The patient was referred to Dr. Ray Covington, an orthopedic surgeon, who removed bone fragments and decompressed the right elbow joint on January 4, 2002. Post-surgical rehab was recommended and performed by Dr. Craig Cernosek at Waco Ortho Rehab.

#### DISPUTED SERVICES

Under dispute is the medical necessity of physical therapy and OTC muscle relaxants rendered to the patient between 11/29/01 through 5/21/02.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

Post-surgical therapeutic exercises were performed from the dates 2/18/02 through 4/24/02 relative to both the wrist and elbow. They consisted of 1 3/4 hours of one-on-one exercises utilized to develop strength, endurance, flexibility, and range of motion. These were followed by fifteen minutes of group exercises. In looking at the records for the dates in question, the time the patient spent performing these exercises is clearly logged in at the top of the page, and all exercises are described. The TWCC Medicine Ground Rules page 32, 1(10) states that the maximum amount of time allowed for each session is two hours. The treating doctor was well within this time parameter and adequately documented his procedures and outcomes. The treatment was medically necessary.

With regards to the administration of over-the-counter muscle relaxants on 3/20/02, the TWCC Medicine Ground Rules state on page 31, I(A)2 that the treatment in question should be “specific to the injury and provide potential improvement of the patient’s condition.” As this was also intended to relieve symptoms naturally occurring from the injury, it is considered medically necessary treatment.

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