

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NO.:**

SOAH DOCKET NO. 453-04-0801.M5

MDR Tracking Number: M5-03-0955-01

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 titled Medical Dispute Resolution –General 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 12-9-02.

The IRO reviewed chiropractic treatment rendered from 1-14-02 to 7-8-02 that were denied based upon “U”.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

| DOS | CPT CODE | Billed | Paid | EOB Denial Code | MAR\$ (Maximum Allowable Reimbursement) | Reference | Rationale |
|--|-----------------|---------------|-------------|------------------------|--|--------------------|---|
| 1-14-02 1-21-02 1-22-02 1-23-02 1-30-02 2-1-02 2-4-02 2-11-02 2-20-02 2-22-02 2-27-02 3-1-02 3-4-02 3-21-02 4-3-02 4-5-02 4-8-02 4-15-02 4-17-02 4-19-02 4-30-02 5-3-02 5-6-02 5-8-02 | 99213 | \$50.00 | \$0.00 | U | \$48.00 | Section 408.021(a) | IRO concluded these services were medically necessary. Reimbursement is recommended of 28 dates X \$48.00 = \$1344.00 |

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| 5-15-02 5-17-02 5-29-02 7-8-02 | | | | | | | |
| 1-14-02 1-22-02 1-23-02 1-30-02 2-1-02 2-4-02 2-11-02 2-20-02 2-22-02 2-27-02 3-1-02 3-4-02 4-3-02 4-5-02 4-8-02 4-15-02 4-17-02 4-19-02 4-30-02 5-3-02 5-6-02 5-8-02 5-15-02 5-17-02 | 97250 | \$43.00 | \$0.00 | U | \$43.00 | Section 408.021(a) | IRO concluded these services were medically necessary. Reimbursement is recommended of 24 dates X \$43.00 = \$1032.00 |
| 1-14-02 1-22-02 1-23-02 2-1-02 2-4-02 2-11-02 2-20-02 2-22-02 2-27-02 3-1-02 3-4-02 4-3-02 4-5-02 4-8-02 4-15-02 4-17-02 4-19-02 4-30-02 5-3-02 5-6-02 5-8-02 5-15-02 5-17-02 | 97110 (8 units) | \$280.00 | \$0.00 | U | \$35.00 / 15 min X 4 = \$140.00 | Section 408.021(a) | IRO concluded that 4 units were medically necessary. Reimbursement is recommended of 23 dates X \$140.00 = \$3220.00. |

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| 1-30-02 | 97110 (7units) | \$245.00 | \$0.00 | U | \$48.00 | Section 408.021(a) | IRO concluded that 4 units were medically necessary. Reimbursement is recommended of \$140.00. |
| 5-24-02 | 97750MT | \$172.00 | \$0.00 | U | \$43.00 / body area | Section 408.021(a) | IRO concluded that testing was medically necessary. Reimbursement is recommended \$172.00. |
| 4-17-02 | 99070 | \$6.00 | \$0.00 | U | DOP | Section 408.021(a) | IRO concluded that supplies were medically necessary. Reimbursement is recommended of \$6.00. |
| 6-6-02 | 99215 | \$125.00 | \$0.00 | U | \$103.00 | Section 408.021(a) | IRO concluded that supplies were medically necessary. Reimbursement is recommended of \$103.00. |
| TOTAL | | | | | | | The requestor is entitled to reimbursement of \$6017.00. |

The IRO concluded that joint mobilization (97265) and group therapeutic procedures (97150) were not medically necessary. The IRO concluded that 4 units of therapeutic procedures (97110) and all other services rendered from 1-14-02 through 7-8-02 were medically necessary.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees (\$6017.00). 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.

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

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On March 5, 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 | MAR\$ (Maximum Allowable Reimbursement) | Reference | Rationale |
|---------------------------------------|-------------|----------|--------|-----------------------|--|-----------------------------|---|
| 1-11-02 2-6-02 3-8-02 4-1-02 | 97750MT | \$172.00 | \$0.00 | G | \$43.00 / body area | Medicine GR (I)(E)(3) | On these dates the requestor billed office visit and physical therapy services. Muscle testing is not global to these services. Muscle testing report supports 3 |

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| | | | | | | | body areas were tested; reimbursement of 3 X \$43.00 = \$129.00 for each date. Therefore, reimbursement of 4 dates X \$129.00 = \$516.00. |
| 1-8-02 3-14-02 | 99215 95851 97750MT | \$125.00 \$120.00 \$301.00 | \$0.00 | F G G | \$103.00 | Medicine GR (I)(E)(2)(a) | <p>The requestor billed for a comprehensive office visit, range of motion testing and muscle testing on these dates.</p> <p>On these dates the requestor billed \$546.00 for the services.</p> <p>Physical examination, Range of Motion and Muscle testing are not global to the office visit.</p> <p>The requestor noted that on these dates physical capacity testing was done. Per Medicine GR (I)(E)(2)(b)(ii), physical capacity evaluations are a component of a FCE. The MFG states that physical evaluations, range of motion and muscle testing are global to a Functional Capacity Evaluation. Per Medicine GR (I)(E)(3), "muscle testing may replace six components of the functional abilities test and shall be reimbursed (by time required) as a component of the FCE, not exceeding the MAR for an FCE."</p> <p>Therefore, the requestor billed incorrectly by billing components of an FCE separately. The MAR for an initial FCE is \$500.00. Per Medicine GR (I)(E)(2)(a), the second FCE's MAR is \$200.00. The requestor exceeded this amount by billing \$546.00 each date. Per MFG, the requestor is due \$500.00 for initial FCE; and \$200.00 for second and third FCE = \$400.00. For a total of \$900.00.</p> |
| 1-8-02 3-14- | 99080-73 | \$15.00 | \$0.00 | F | \$15.00 | Rule 129.5(d) | A review of the TWCC-73's does not reveal a change in |

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| 02 | | | | | | | claimant's work status to support billing per Rule 129.5(d). No reimbursement is recommended. |
| 6-6-02 | 95851 (X3) | \$40.00 ea | \$0.00 | G | \$36.00 ea | Medicine GR (II)(E)(2) | As stated in above rationale, the requestor billed 99215, 95851 and 97750MT on this date. These are components of an FCE. The above recommendation meets the limit of reimbursement for 3 FCE's. Therefore, reimbursement is not recommended. |
| 6-6-02 | 97750MT | \$301.00 | \$0.00 | G | \$43.00 / body area | | |
| 4-22-02 | 97750MT | \$129.00 | \$86.00 | F | \$43.00 / body area | Medicine GR (I)(E)(3) | Muscle testing report for 4-22-02 was not submitted; therefore, unable to determine if additional reimbursement is due per MFG. |
| 1-11-02 | 99070 | \$30.00 | \$15.95 | M | DOP | Section 413.011(b) | Amount in dispute is \$14.05. The requestor did not support amount billed was fair and reasonable per Section 413.011(b). |
| TOTAL | | | | | | | The requestor is entitled to reimbursement of \$1416.00. |

This Decision is hereby issued this 3rd day of September 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

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 1-8-02 through 7-5-02 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 Order is hereby issued this 3rd day of September 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO Decision

February 27, 2003

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

Patient:
TWCC #:
MDR Tracking #: M5 03 0955 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.

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

This patient was injured on the job when the truck in which he was riding flipped over onto its side, causing him injuries to his neck, elbow and low back. He began treatment about 2 weeks later at the Waco Ortho Rehab clinic in Waco under the direction of Craig Cernosek, DC. Treatment consisted initially of active and passive treatment along with a home exercise program. A MRI of the cervical and lumbar spines was performed on January 22, 2002 in which a disc herniation was noted at C5/6 and a protrusion was found at C3-4 as well as C4-5. The lumbar spine was noted to have a protrusion at L4/5. Electrodiagnostic studies were generally negative in the upper extremities.

DISPUTED SERVICES

Ziroc is asked to review services in dispute to include office visits, physical therapy and OTC muscle relaxers on January 14, 2002 through July 8, 2002.

DECISION

The reviewer agrees with the decision to deny medical necessity of joint mobilization (97265). The reviewer agrees with the prior adverse determination with reference to Group Therapeutic Procedures (97150). The reviewer agrees with the prior adverse determination in part on Therapeutic Exercises (97110), allowing for only 4 units per day of this service.

For all other treatment in question, the reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The patient clearly had serious injuries from the accident. The MRI did reveal that there was organic disturbance in the patient's spine. The care rendered was very extensive, but much of the care was clinically justified in both the patient's diagnostics and the treating doctor's documentation. Joint mobilization is a form of manipulation which is included in the basic office visit. Group procedures on this patient are not necessary, as the patient was treated with therapeutic exercises extensively. No documentation is available that explains why such extensive treatment is necessary. In the case of therapeutic exercises, I can find no justification to keep a patient working in exercise therapy for 2 hours each day. 4 units per day should more than suffice a patient with this condition. No justification can be found in the documentation to allow this reviewer to consider more than this.

The patient was handled clinically in an appropriate manner with reference to the type of treatment received and even the duration. However, I do feel that the treatment on each daily basis was excessive. No research is found to justify the amount of treatment on a daily basis.

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