

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (x) HCP () IE () IC	Response Timely Filed? (x) Yes () No
Requestor's Name and Address Vista Medical Center Hospital 4301 Vista Rd. Pasadena, TX 77504	MDR Tracking No.: M5-03-3355-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Continental Casualty Co./Rep. Box #: 47 C/o Wilson, Grosenheider & Jacobs, LLP P.O. Box 1584 Austin, TX 78767	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
9-11-02	9-18-02	Inpatient Hospitalization	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor **prevailed** on the disputed medical necessity issues.

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. The inpatient services were found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

The respondent's explanation of benefits of December 18, 2002, lists denial code "F" with "Note 2 – (F) The charges for this hospitalization have been reduced based on the fee schedule allowance." The respondent also list "* - Number of days exceeded for hospital stay. Procedure not preauthorized, requested but denied, no mar per adjuster."

Commission Rule 133.301(a) states, "... The insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatment(s) and/or service(s) for which the health care provider has obtained preauthorization under Chapter 134 of this title (relating to Guidelines for Medical Services, Charges, and Payments)...". RSKCo's authorization of September 3, 2002 authorized the inpatient stay for 9-11-02 and 9-12-03.

This dispute relates to inpatient services provided in hospital setting with reimbursement subject to the provisions of Rule 134.401 (Acute Care Inpatient Hospital Fee Guideline). The hospital has requested reimbursement according to the stop-loss method contained in that rule. Rule 134.401(c)(6) establishes that the stop-loss method is to be used for “unusually costly services.” The explanation that follows this paragraph indicates that in order to determine if “unusually costly services” were provided, the admission must not only exceed \$40,000 in total audited charges, but also involve “unusually extensive services.”

After reviewing the documentation provided by both parties, it does appear that this particular admission involved “unusually extensive services.” In particular, this admission resulted in a hospital stay of 7 days. The operative report of 9-12-02 indicates the patient underwent a multi level fusion with BAK cages , laminectomy, and hardware removal. Accordingly, the stop-loss method does apply and the reimbursement is to be based on the stop-loss methodology.

In determining the total audited charges, it must be noted that the insurance carrier has indicated some question regarding the charges for the implantables. The requestor billed \$90,691.00 for the implantables. The carrier did not allow any reimbursement the implantables. The key issue is what amount would represent the usual and customary charges for these implantables in determining the total audited charges.

Based on a review of numerous medical disputes and our experience, the average markup for implantables in many hospitals is 200%. Since neither the requestor nor the respondent provided any documentation regarding the cost of the implantables, we will apply the average markup to the charged amount in order to determine the amount to use in the decision. Based on a charge of \$90,691.00, it appears that the cost for these implantables was approximately \$45,345.50 (charged amount divided by 200%). Since the reimbursement for implantables is cost plus 10%, the amount due for the implantables would equal \$49,880.05.

The audited charges for this admission, excluding implantables, equals \$90,522.19. This amount plus the above calculated audited charges for the implantables equals \$140,402.24, the total audited charges. This amount multiplied by the stop-loss reimbursement factor (75%) results in a workers’ compensation reimbursement amount equal to \$105,301.68 (respondent did not all any reimbursement).

Based on the facts of this situation, the parties’ positions, and the application of the provisions of Rule 134.401(c), we find that the health care provider is entitled to a reimbursement amount for these services equal to \$105,301.68.

PART IV: COMMISSION DECISION AND ORDER

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is entitled to a refund of the paid IRO fee in the amount of \$650.00. The Division hereby **ORDERS** the insurance carrier to remit the amount of \$105,301.68, plus all accrued interest due at the time of payment to the Requestor within 20-days of receipt of this Order.

Ordered by:

Robert L. Shipe

7-26-05

Authorized Signature

Typed Name

Date of Order

PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative’s box.

Signature of Insurance Carrier: _____ Date: _____

PART VI: YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within 20 (twenty) days of your receipt of this decision (28 Texas Administrative Code § 148.3). This Decision was mailed to the health care provider and placed in the Austin Representatives box on _____. This Decision is deemed received by you five days after it was mailed and the first working day after the date the Decision was placed in the Austin Representative's box (28 Texas Administrative Code § 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas, 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request.

The party appealing the Division's Decision shall deliver a copy of their written request for a hearing to the opposing party involved in the dispute.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

November 7, 2003
Amended December 5, 2003

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

Patient: _____
TWCC #: _____
MDR Tracking #: M5-03-3355-01
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 Medical Doctor board certified and specialized in Orthopedic Surgery. 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

Mr. ___ is a 61-year-old gentleman who injured his lower back on ___. He was treated with conservative methods but had persistent lower back pain. He underwent a lumbar laminectomy by Dr. Soles, M.D. in September of 1994, yet had persistent leg and back pain. It is noted that he had a herniated disc at L4/5 and L5/S1.

The patient came under the care of Dr. Eric Scheffey, M.D. in 1997. A CT myelogram demonstrated disc protrusion at L4/5 and L5/S1. The patient underwent an L4/5 laminectomy and fusion by Dr. Scheffey.

On November 30, 1999 the patient had his EBI hardware removed. At the time of surgery, he noted that the patient had a pseudoarthrosis which required further grafting and fixation.

Because of the persistent pain, the patient underwent a second CT myelogram that demonstrated a disc protrusion at L3/4. An EMG/NCV study demonstrated persistent radiculopathy at the L4/5 and L5/S1 levels. The patient then underwent pain management that failed.

A third CT myelogram was performed on July 31, 2001 that demonstrated a persistent disc bulge at L2/3 and a large herniation at L3/4 with arthropathy at L4/5 and L5/S1 with healing bone graft from prior surgery.

The patient underwent a fourth CT myelogram on July 10, 2002. This demonstrated persistent disc protrusion from L1/2 - L2/3, and healing graft material from prior surgery.

The patient had persistent lower back pain with bilateral leg pain. He subsequently failed conservative treatment and was admitted to Vista Medical Center Hospital on September 11, 2002, per Dr. Scheffey. This patient has type II diabetes and a consultation by Dr. Osavldo, M.D. was performed during hospitalization.

On September 12, 2003 the patient underwent the following:

- 1) Removal of hardware
- 2) Removal of EBI and electrodes
- 3) Excision of lumbosacral cyst
- 4) Secondary closure of lumbosacral cyst
- 5) Exploration of a fusion mass
- 6) Excision of pseudoarthrosis at L4/S1
- 7) Bone grafting and pedicle screw holes at L4, L5 and S1
- 8) Bilateral laminectomy at L2/3, L3/4, L4/5, L5/S1 and S1/2 with foraminotomies at the same levels.
- 9) Excision of a lumbar disc herniation at L3/4
- 10) Sacroiliac graft
- 11) Anterior fusion through a posterior approach at L3/4 using BAK cages
- 12) Lateral transverse fusion from L3-S1
- 13) EBI stimulator placement from L3-S2
- 14) Posterolateral facet fusion from L3-S2
- 15) Bilateral instrumentation at L3-S1
- 16) Fat graft from L2-S2
- 17) Excision of spinous processes from L2-S1

- 18) Secondary closure of large muscle flap and fascial flap for a closure of a large seroma formation posteriorly
- 19) Scar revision

The patient remained in the hospital under the care of Dr. Scheffey and several consultants for his diabetes and his anemia. He was discharged to home on September 18, 2002

DISPUTED SERVICES

Under dispute is the medical necessity of a semi-private hospital room, pharmacy-generic drug, pharmacy-non-generic drug, supplies, sterile supplies, implants, lab x 8, and radiology x 6 from 9/13/02 through 9/18/02.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

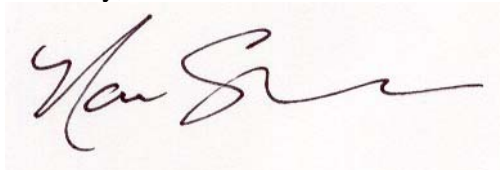
The reviewer finds that it was medically necessary for the hospital semi-private room, pharmacy, pharmacy/generic drugs, pharmacy/non-generic drugs, supplies, sterile supplies, implants, lab x 8 and radiographic x 6 during the patient's inpatient care from September 13 through September 18, 2002.

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