

MDR Tracking Number: M5-03-1760-01

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 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 1-30-03.

The IRO reviewed prescription medications rendered from 11-27-02 through 1-16-03 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. Pharmacy receipts support requestor's position that he paid for prescription medications; therefore, the requestor is entitled to reimbursement for his out of pocket expenses for the disputed medications.

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 September 3, 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.

Neither party submitted EOBs to support services identified as "No EOB"; therefore, they will be reviewed in accordance with Pharmacy *Fee Guideline*.

DOS	Rx	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
11-29-02	Unknown	\$10.00	\$0.00	No EOB	Unknown	Pharmacy Fee Guideline	The TWCC-60 and pharmacy receipts do not identify what medication is in dispute. Therefore, 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 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 11-2-02 through 1-16-03 in this dispute.

This Decision and Order is hereby issued this 26th day of November 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

August 26, 2003

Re: Medical Dispute Resolution
MDR # M5-03-1760-01

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Board Certified in Orthopedic Surgery.

Clinical History:

This male claimant injured his cervical, thoracic, and lumbar spine in a work-related accident on ____. His worst injury was to the cervical spine. After conservative treatment failed, he required anterior cervical fusion at C5-C6 level in May 1996. The patient's symptoms continued in his neck and also his lower back following this surgical procedure.

According to presented documentation, there has never been a period of time when the patient has been free of pain or free of complaints. He has continued to have symptoms since the injury occurred. He was able to return to some type of work, but at the present time, he is not working and is on Social Security Disability.

The patient has continued to require maintenance treatment and medication for his pain and muscle spasms. He is, apparently, receiving four Soma per day, which is a muscle relaxant, Ambien, which is a sleeping pill, and Talacin, which is a pain medication. The records do not reflect that the patient has been abusive on this medication. His symptoms have been constant since the date of injury and have continued through and after the surgical procedure.

Disputed Services:

Prescription medications Soma, Ambien, and Talacin.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the medications in question were medically necessary in this case.

Rationale:

The patient has continuing symptoms in his neck and back that require medication in order to give him a better quality of life. He is not being abusive on the medication and should be continued.

The reviewer is of the opinion that the patient should continue maintenance-type treatment with is treating physician, and should be seen at intervals for re-evaluation and prescription renewal. The three medications in question are appropriate and are being used in an appropriate fashion in this case.

According to Texas Labor Code 408:021(a), an employee is entitled to the care reasonably required in association with their injury and the treatment thereof. If the patient's condition is not stable, the care to maintain and promote healing is medically necessary.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,