



## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> ( ) Health Care Provider (x) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: Eun Su Richmond 788 E. 1900 S. Clearfield, UT 84015-6262	MDR Tracking No.: M4-05-B389-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Lumbermen's Mutual Casualty Co. C/o Harris & Harris Box 42	Date of Injury:
	Employer's Name: Johnson & Johnson
	Insurance Carrier's No.: 4210032243

### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

[Injured worker's] extensive medical history of RSDS was presented at the TWCC Benefit Contested Case Hearing (CCH) of August 29, 2000. The Hearing Office rendered the decision on October 6, 2000, that [injured worker's] compensable injury extends both to the cervical spine (neck) and to CRPS (RSDS) and order that the insurance carrier pay all related medical benefits. The insurance carrier unsuccessfully appealed the decision in November, 2000, when the TWCC Appeals Panel upheld the decision in December, 2000. The Insurance carrier abided by the decision until March, 2002. The opinion derived from the single, 45-minute insurance carrier-sponsored Independent Medical Evaluation (IME) of March 6, 2002 is flawed as it flies in the face of several years of opposing exhaustive multi-physician observation and evaluation, both pre- and post-IME of [injured worker's] condition that was proven to, and confirmed by the decision of, the TWCC Hearing Office in October, 2000, and upheld upon appeal in November, 2000. Based upon that flawed opinion, and despite the insurance carrier having duly paid for necessary medical benefits subsequent to the CCH decision, the insurance carrier is acting in bad faith by ignoring the TWCC order and denying payment for the commonly accepted medications properly prescribed by the treating doctor to alleviate as much as 80% of the pain and suffering directly result from [injured worker's] compensable injury recognized by the TWCC... The insurance carrier's continued bad faith action forced [injured worker] for a second time to file an MDR Request with the TWCC Medical Review Division in May, 2004 for reimbursement for prescription medications. The Division enlisted an Independent Review Organization that approved the prescription medications in treating [injured worker's] compensable injury. Per the Division's Decision and Order of 07/06/2004, "...The prescriptions... were found to be medically necessary. ... (and) hereby ORDERS the respondent to pay the unpaid medical fees... Taking the above activities, decisions, and orders into account, it is [injured worker's] position that the insurance carrier a) is acting in bad faith and is simply wrong as a matter of law in refusing payment directly to pharmacies filling the prescriptions of medications medically necessary to treat and alleviate the pain of [injured worker's] compensable injury, thereby forcing [injured worker] to personally make payment for those prescriptions, and b) should pay to [injured worker] the requested reimbursement amount.

### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

The Respondent did not respond to the Requestor's request for Medical Dispute Resolution.

### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Part V Reference	Additional Amount Due (if any)
09/29/04	Out-Of-Pocket expenses for Rx Medications	1	\$364.46

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

The disputed issue is non-payment of out-of-pocket expenses for prescription medications incurred by the injured worker. Since neither party submitted EOBs, this dispute will be reviewed per Rule 133.307.

Per §133.307(f)(1-3) the injured worker has submitted all the necessary documents supporting reimbursement of out-of-pocket expenses. The injured worker has also submitted a letter of medical necessity supporting the continuation of the prescribed medications.

The injured worker has submitted receipts for both Neurontin, in the amount of \$354.46, and Amtripryline, in the amount of \$9.99. Therefore, reimbursement in the amount of \$364.46 is recommended.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.307(f)(1-3)

**PART VII: DIVISION DECISION AND ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the requestor is entitled to additional reimbursement in the amount of \$364.45. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30-days of receipt of this Order.

Ordered by:

Marguerite Foster

September 15, 2005

Authorized Signature

Typed Name

Date of Order

**PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. The Division is not considered a party to the appeal.

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