

MDR Tracking Number: M5-02-2147-01

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 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 \$650.00** 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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The prescription medication was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the prescription medication.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay 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 Order is applicable for dates of service 5-28-01 through 10-5-01 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 1st day of May 2002.

Dee Z. Torres, Medical Dispute Resolution Officer  
Medical Review Division

DZT/dzt

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and subsequently re-delegated by Virginia May, Deputy Executive Director.

April 25, 2002

Texas Workers' Compensation Commission  
David R. Martinez, Chief  
Medical Dispute Resolution  
4000 South IH-35, MS 40  
Austin, TX 78704-7491

Re: Medical Dispute Resolution  
MDR #: M5-02-2147-01  
IRO Certificate No.: IRO 5055

Dear:

\_\_\_ 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 Anesthesiology and Pain Management.

**THE REVIEWER OF THIS CASE DISAGREES WITH THE DETERMINATION MADE BY THE CARRIER ON THIS CASE.**

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.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted.

Sincerely,

MEDICAL CASE REVIEW

This is for \_\_\_. I have reviewed the medical information forwarded to me concerning TWCC Case #M5-02-2147-01, in the area of Pain Management. The following documents were presented and reviewed:

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A. MEDICAL INFORMATION REVIEWED FROM:

1. Texas Workmen's Compensation Commission, \_\_\_, and \_\_\_ regarding patient with date of injury \_\_\_;
2. Denial of payment on amitriptyline.
3. Denial of payment for hydrocodone APAP.
4. Third denial of payment for hydrocodone APAP.
6. Evaluation by \_\_\_, (Not specified what \_\_\_ specialty might be).
7. Reply by \_\_\_ to questions presented by \_\_\_ at \_\_\_ Workmen's Compensation Claims Office.
8. \_\_\_ history and physical examination on patient, dated 9/20/00, which included a three-hour evaluation.
9. Letters from \_\_\_, a Board-certified Pain Management physician, regarding patient.
10. A report by \_\_\_, a spine surgeon, regarding patient.
11. A follow-up note by \_\_\_.
12. Multiple notes from \_\_\_ office.

B. SUMMARY OF EVENTS:

This lady had an injury, as previously stated, \_\_\_, almost exactly ten years ago, at which time she was at a convention when a large sheet of plexiglas fell approximately 14 feet onto her shoulder, injured her back and neck and knocked her unconscious. Since then, she has had somewhere in the region of five back operations and two cervical fusions with hardware. She continues to have severe pain in her low back and arms, weakness in her arms, and some weakness in her legs, which necessitates her using a walker. She has even applied for the use of a wheelchair. She is not able to use a hand-operated wheelchair because of the weakness in her arms.

She has also had recent diskograms which show disk disease of L2-3 and L3-4 above her fusion at L4-5 and L5-S1. She continues to have significant pain, and \_\_\_ prescriptions for her pain medication and for her antidepressant drugs have been denied by \_\_\_.

\_\_\_ is of the opinion that this patient does not need any pain medication because, as he quotes, "There are two schools of thought in chronic pain management; one believes in restricting as much medication as possible while teaching coping skills and managing the psychological overlay issues." "The other," as he says, "developed in the past few years, believes that it is appropriate to treat the symptoms of the patient." He also goes on to say that he simply does not agree with this new course taken by many of the chronic pain physicians. He also states that the chance of any medical intervention being effective is quite small. With that being the case, he thinks the most prudent course of intervention is to "stay away from dangerous drugs and controlled substances," and in his medical opinion, the use of these medications is neither reasonable nor necessary.

C. OPINION:

I DISAGREE WITH THE DETERMINATION MADE BY THE UTILIZATION REVIEW AGENT ON THIS CASE. THE PAIN MEDICATIONS REQUESTED ARE MEDICALLY NECESSARY AND APPROPRIATE.

I do not think that this lady is likely to ever be cured by any surgical procedures. She will, in all likelihood, continue to hurt and, in all likelihood, also continue to be depressed as a result of her pain. \_\_\_ ideas and philosophy are way out of the mainstream, and I do not think reflect current thinking in this arena. \_\_\_ ideas are more mainstream and conventional. \_\_\_ is right in that this patient will never be cured, but she has real pain, and if the cause of the pain cannot be

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successfully treated, then the pain has to be treated. I think she should have access to long-term pain medication, and instead of the current Norco that she is on, it may be better to have her on some sort of long-acting pain medication such as MS Contin or OxyContin and possibly even methadone, as well as psychotherapy and medication for treatment of her depression. All these could be considered "maintenance" therapy" as suggested by \_\_\_ but to deny her pain medication due to failure of the medical profession to adequately treat the cause of her pain would be an injustice. I think to be philosophically opposed to the use of pain medication in somebody who has real pain, and to abandon this patient to her own resources is cruel and inhuman. Though this pain may not be of a malignant nature, chronic pain due to non-malignant conditions is still real pain and needs to be treated. As previously stated, if the cause cannot be treated, then the pain has to be treated.

D. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

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Date: 19 April 2002