

MDR Tracking Number: M5-02-2950-01

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 IRO report determined the Vicodin, Elavil, Soma, Neurontin, Ambien and Hydrocodone were medically necessary. The IRO found Nexium and Vioxx not medically necessary. The sum of the disputed medications found as medically necessary exceed the sum of the medications not found medically necessary. Therefore, 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. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order. 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 Vicodin, Elavil, Soma, Neurontin, Ambien and Hydrocodone were found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 15<sup>th</sup> day of November 2002.

Noel L. Beavers  
Medical Dispute Resolution Officer  
Medical Review Division

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 to dates of service 9/25/01 through 5/3/02 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 15<sup>th</sup> day of November 2002.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/nlb

October 8, 2002

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

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\_\_\_ 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 \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ 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 Medical Doctor with a specialty in Pain Management. This doctor is board certified in Anesthesiology. The \_\_\_ 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 \_\_\_ 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 40 year old gentleman was treated for a work related accident which was sustained on \_\_\_\_\_. He was injured moving a refrigerator. According to records received, he has a diagnosis of lumbar strain, lumbar radiculopathy and lumbar disc disruption.

Medications as of August 21, 2001 include Vioxx 50mg q.d., Vicodin ES bid, Elavil 25 mg H.S. and Soma 350 mg H.S. As of July 2, 2002, medications included Nexium, Neurontin, Ambien, Hydrocodone and Soma.

On physical examination, the straight leg raise is positive at 35 degrees on the left and 30 degrees on the right. Lower extremities are numb and tingling. The lower back is tender and spastic with an antalgic gait and there is atrophy of the left leg with chronic spasm over the L3-4, L4-5 and S1 areas. EMG/NCV of May 18, 2000 was normal and MRI of December 6, 1999 showed bilateral neural foramina narrowing in L4-5 and mild left neural foramina narrowing at L3-4 both due to spur formation. There was slight disc bulging at L4-5. There was a moderate multilevel disc dessication without significant disc herniation.

Treatment for this patient has included medications and lumbar epidural steroid injections. The reports for the ESI were not included, preventing evaluation of whether these injections were performed under fluoroscopy and specifically targeted to the potential pain generator.

## DISPUTED SERVICES

Prescription medication to include Vioxx, Vicodin, Elavil, Soma, Nexium, Neurontin, Ambien and Hydrocodone

## DECISION

The reviewer agrees with the prior adverse determination in part and disagrees in part. Vioxx should have been substituted with over the counter Ibuprofen or Naprosyn, lacking history of gastric irritation or a procedure that would contraindicate platelet inhibition. The Nexium should be replaced with Pepcid or Zantac, lacking contraindications to these drugs. The reviewer disagrees with the previous adverse determination regarding Vicodin, Elavil, Soma, Neurontin, Ambien and Hydrocodone.

## BASIS FOR THE DECISION

Physical exam reveals radicular symptoms consistent with chronic nerve root irritation. This can be very painful and can precipitate muscle spasms. The reviewer did not see evidence of consideration of other causes of chronic back pain such as facet arthropathy. Perhaps there are other interventions available through further work up that could allow the patient to eventually reduce or stop chronic medications. Peer reviewed literature reveals that although EMG can be helpful, it does not have 100% validity in every case. The MRI shows neuroforaminal narrowing and bone spurs which could easily produce radicular and axial back pain in the areas demonstrated clinically in this patient.

As an officer of \_\_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,