

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 requestor submitted a medical dispute resolution request on 11/8/02 and was received in the Medical Dispute Resolution on 11/13/02. The disputed date of service 11/6/01 are not within the one year jurisdiction in accordance with Rule 133.308(e)(1) and will be excluded from this Finding and Decision.

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 prescription medications were found to be medically necessary, except for sleeping pills. The respondent raised no other reasons for denying reimbursement for these prescription medication charges.

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 12/6/01 through 4/25/02 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 30th day of July 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

January 30, 2003

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

MDR Tracking #: M5-03-0756-01
IRO #: 5251

___ 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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor who is both specialized and 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

The patient was injured in ___. She was injured while pulling a hood on a bus. This resulted in pain in her shoulder. She reports that she also developed neck pain, decreased range of motion muscle spasms, headaches, nausea, blurred vision and numbness and tingling in her fingers. She was treated by a chiropractor, ___. She was seen by multiple doctors, including an orthopedic surgeon who evaluated her for her shoulder injury. He gave her a diagnosis of right shoulder impingement and rotator cuff tendonitis. She also

received multiple injections and medical management from a pain management physician. She was also seen by a neurosurgeon pertaining to her cervical spine.

Previous treatments for pain:

- Trigger point injections
- 37 sessions of physical therapy at ____
- May 7, 2002 Cervical facet injections bilateral at C3, C4, C5 and C6
- July 16, 2001 cervical epidural injection
- Trial spinal cord stimulator
- Spinal cord stimulator implantation
- TENS unit

Diagnostic studies

- A cervical spine series dated August 13, 2002, shows minimal spondylosis, small anterior posterior osteophytes with minimal uncovertebral facet arthropathy.
- There's also an increased reversed curve of the middle lower portion of the cervical spine.
- Cervical discogram dated August 13, 2002, inconclusive due to multiple levels of pain. C7-T1 was normal. C3-4 showed concordant neck pain, C5-6 and C6-7 also showed concordant neck pain.
- EMG which showed a left C6-7 radiculopathy
- MRI of right shoulder dated December 18, 2000 showed unremarkable study
- MRI of cervical spine dated December 18, 2000 showed mild disc protrusions, but no impingement upon the neural foramina. There was, however indentation upon the thecal sac at C2-3, C3-4, C5-6 and C6-7. Additionally, there was reported central spinal stenosis at C6-7.
- Cervical spine AP and lateral views dated December, 2000 showed increased reversed curve at the middle portion of the cervical spine.
- Cumulative medications used during the course of treatment: Promethazine, Zoloft, Isomeheptan, sulfamethoxin, Zanaflex, Norco, Theragesic cream, vicoprofen, Midrin, Phenergan, Xanax, Phrenalin Forte, Effexor, Neurontin, Sonata, Flexeril, Xanax, Medrol dosepak, Vioxx and Vicodin.
- Physical exam: radialis reflex is 1+, right triceps and biceps are 2+. Muscle strength of upper extremities 5/5. Cervical axial compression test positive, hypoesthesia along C5-6, C6-7 dermatome on the right side of the upper extremity.

Assessment

- 1) Right C6-7 radiculopathy
- 2) Mood disorder
- 3) Myofascial pain syndrome
- 4) Occipital neuralgia headache
- 5) Chronic insomnia
- 6) Cervical facet syndrome
- 7) Right shoulder pain

DISPUTED SERVICES

Under dispute are the medications prescribed from 12/6/01 through 4/25/02.

DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

With exception to the sleeping pills, all other medications were deemed medically appropriate by the reviewer.

BASIS FOR THE DECISION

This patient has multiple symptoms related to the diagnoses. A surgical plan is not confirmed at this time. That leaves this patient with few options other than diagnostic pain injections and medications. It is a complicated clinical picture, and withholding medications will not help this patient. The medications in dispute, including muscle relaxants and antidepressants, are helpful to the patient suffering from these symptoms with exception to the sleeping pills. Otherwise, the medical necessity for this treatment is confirmed, as it is the patient's only option at this time.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

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,