

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. The dispute was received on 10-27-03.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the Hydrocodone, Acetaminophen, Baclofen, Trazodone and OxyContin 08-20-03 was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for date of service 08/20/03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 13th day of January 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Date: December 23, 2003

RE: MDR Tracking #: M5-04-0602-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Anesthesiologist physician reviewer who is board certified in Anesthesiology. The Anesthesiologist physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Brief Clinical History

The claimant was injured in _____. He failed conservative care, underwent a discogram in October 2000, which showed 3 level degenerative changes involving fissuring, annular tears and herniated disc at L5-S1 with concordant pain at all levels. In January 2001, the claimant underwent a fusion from L3-S1 with instrumentation, bone grafting and decompression of the neural structures. The claimant has had continued complaints after the surgery and had not returned to work. There is some consideration for possible exploration of his fusion. He is currently being treated with oral medications in the form of Baclofen, OxyContin, Norco, Gabitril, Restoril and Celexa. The claimant has been on Neurontin and Zoloft in the past. The claimant has been through a chronic pain management program with behavioral therapies from November 2002 through January 2003. The claimant has had several reviews by outside physicians including _____, Psychiatrist. _____ felt that the "history and presentation indicates malingering pain complaints to secure ongoing heavy opiate intake and malingered mood complaints to secure ongoing compensation benefits." The claimant also had a review by an Orthopedic Surgeon _____, who felt "the claimant was a poor surgical candidate." He felt there was very minimal evidence of a pseudoarthrosis from reviewing the CT scan and the report from the reviewing radiologist.

Requested Services

Continued use of Hydrocodone, Acetaminophen, Baclofen, Trazodone and OxyContin.

Decision

I agree with the insurance carrier that every attempt should be made to wean the claimant from these medications.

Rationale/Basis for Decision

The claimant has had no significant relief with any modality used, whether it be surgical interventional, physical therapy, chronic pain management program, behavioral therapy and oral medications. There have been two separate reviews that question the validity of his pain complaints, first by psychiatrist and second by an orthopedic surgeon. The psychiatrist was very specific in his feeling that the claimant was malingering to gain medication and continued financial benefit, although it is very hard to demonstrate malingering with intermittent office visits and review of notes. The evidence has shown no significant reduction with any treatment modalities of multiple different kinds. A psychiatric review pointed toward a supratentorial problem causing continued complaints of pain and an orthopedic evaluation showing minimal evidence of anatomic abnormalities.