

MDR Tracking Number: M5-04-1003-01

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 06-26-03.

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 prescription medications on 07-23-02 through 01-09-03 were 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 dates of service 07-23-02 through 01-09-03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Finding and Decision is hereby issued this 22nd day of January 2004.

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

August 21, 2003

Amended January 21, 2004

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

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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 Doctor of Osteopathy board certified in Anesthesiology and

specialized in Pain Management. 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

___ sustained a work injury on ___ while walking as her heel caught on a pebbled surface, causing her to lose her balance and fall. This caused back and right leg pain.

A lumbar MRI had been performed on ___, some five months prior to the injury. It demonstrated degeneration of the L4/5 disc, a bone spur at the L4/5 level, and slight bulging of the L2/3 disc. A ___ myelogram, also some five months prior to the injury, demonstrated lumbosacral radiculopathy on the right at S1 and L5.

___ was seen on 5/14/97 by ___ who documented increasing lumbar pain radiating to the right lower extremity over the prior six weeks. She has been treated by ___ ever since.

She also had a cervical MRI on 7/17/98 that demonstrated multilevel disc degeneration and bone spur formation at C3/4, C4/5, C5/6 and C6/7, but no acute disc herniation or neural compression. She also had an MRI of the right knee on 3/29/99 that demonstrated a partial, torn medial meniscus and moderately severe medial-compartment degenerative arthritis. This was treated with a right knee arthroscopy with excision of loose bodies and chondroplasty on 8/17/99.

___ has continued to treat this patient for diagnoses of disc herniation at L2/3, L4/5 and L5/S1 with spinal stenosis, despite the clear lack of such pathology on both the MRI preceding the injury and the CT myelogram on ___ following the injury. In fact, that myelogram on 11/7/97 demonstrated osteoarthritis at L5/S1 in the facet joints, posterior bulge at L3/4, moderate-sized bulge at L2/3 and advanced degenerative disc disease at L4/5. No mention is made of disc herniation at any level, or neural compromise.

During the period of 7/23/02 – 1/9/03, this patient was prescribed Bextra 20 mg at a frequency of every other day, as well as Paxil 10 mg, apparently TID based on the pharmacy records reviewed.

DISPUTED SERVICES

Under dispute is the medical necessity of prescription medications provided from 7/23/02 through 1/9/03.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient has clear evidence of lumbar degenerative disc disease preceding her mild lumbosacral strain injury of ___. This is clearly documented by a December 1996 MRI. She also has evidence of multilevel degenerative disc disease in the cervical spine, also documented by MRI.

There is no evidence, however, to support the diagnoses that ___ has put forth of disc herniations at L2/3, L3/4 and L5/S1 with spinal stenosis.

___ is a 68-year-old woman whose MRI findings clearly demonstrate age-related degenerative lumbar and cervical disc disease. Her current pain complaints are, in all medical probability, due to this age-related degenerative disc disease, an ordinary disease of life, rather than having any relationship to a minor lumbosacral strain injury over six years ago. Any aggravation of the underlying degenerative disc disease would clearly have resolved in no more than six or eight weeks. Any subsequent symptomatology, therefore, is due to the underlying condition and not to the work injury. Therefore, there is no medical reason or necessity for the continued prescribing of either Bextra or Paxil as related to the ___ injury. Any medical necessity for the use of these medications is due solely to the patient's ordinary disease of life, and not to the work injury.

Prescriptions from 7/23/02 through 1/9/03 are not found to be medically reasonable or necessary as related to the ___ injury. It is also important to note that there are no significant physical examination findings in ___ notes that would in any way relate the patient's current symptoms to the ___ injury. In fact, there are no physical examination findings documented in ___ notes for at least three years or more.

___ 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,