

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 (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 January 12, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. 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 Ambien was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed treatment.

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 date of service 01/05/04 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 24th day of May 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

NOTICE OF INDEPENDENT REVIEW DECISION

Date: May 3, 2004

RE: MDR Tracking #: M5-04-1313-01
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 an Anesthesiologist/Pain Management Reviewer who is board certified and has an ADL certification. The 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.

Clinical History

This is a 36 year old gentleman with a history of low back pain after injury on ___. This individual has persistent back and leg pain in spite of multiple injections, physical therapy, and surgical intervention. An MRI shows a possible herniated disc at L5-S1. He has seen several spine surgeons and additional surgery has been recommended. A psychological evaluation reveals significant depression that is attributed to his chronic pain. At this time he is being managed with medications including analgesics and anti-inflammatories. The medication regimen appears to be helping. This individual also has a sleep disorder and the question is whether a prescription for Ambien is reasonable. ___ notes indicate that the Ambien is beneficial in treating the patient's sleep disorder.

Requested Service(s)

Ambien on 1/5/04

Decision

I disagree with the carrier's denial for the Ambien prescription.

Rationale/Basis for Decision

I agree with ___ note that sleep disorders frequently accompany chronic pain states. Without adequate sleep, the individual's perception of pain is heightened and the patient's comfort is impaired. Since the current regimen of analgesics and co-analgesics including Ambien are efficacious in controlling the individuals pain, it is reasonable to continue that regimen. This individual should be on an anti-depressant as well as an analgesic, anti-inflammatory and if needed, a medication to promote sleep. I recommend continuing the Ambien until the patient has definitive surgery. His status should be re-evaluated after the surgery.