

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: 453-04-6004.M5

MDR Tracking Number: M5-04-1760-01

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 (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 February 17, 2004.

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(r)(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 Celebrex, Tizanidine, Neurotin, Darvocet, and Carisoprodol were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the services listed above.

This Findings and Decision is hereby issued this 16th day of April 2004.

Patricia Rodriguez
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 02/17/03 through 05/02/03 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 16th day of April 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution

April 12, 2004

MDR Tracking Number: M5-04-1760-01
IRO Certificate # 5259

An independent review of the above-referenced case has been completed by a medical physician board certified in family practice. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ___ or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

A female injured at 39 years of age on ___ when lifting multiple cans of soda after scanning them. She heard and felt a "pop" in the mid-lumbar region. She continued to work for another two hours but the pain became progressively worse. The patient ultimately saw many physicians and had many diagnostic procedures. She underwent posterior L4 to S1 discectomy and fusion 1/31/97 followed by anterior L4 to S1 discectomy and fusion May 1998. This was followed by L5-S1 laminectomy, facetectomy, and laminotomy and nerve root decompression 7/16/99. There have been epidural steroid injections April 2002. She was given an MMI with 20% impairment rating 2/11/98. The patient, not surprisingly, has had continued lumbar pain and has been prescribed Celebrex, Tizanidine, Neurontin, Darvocet, and Carisoprodol. The patient has a "failed L4-S1 lateral gutter fusion, chronic lumbar radiculopathy right worse than left and bilateral L5 nerve damage with foot drop" according to ___.

REQUESTED SERVICE (S)

Celebrex, Tizanidine, Neurontin, Darvocet, Carisoprodol.

DECISION

Approved.

RATIONALE/BASIS FOR DECISION

This patient obviously has a "failed back." The patient has a chronic pain syndrome. The patient obviously is in need of long term, indefinite, medical care including medication. These medications are totally appropriate. According to policy statements of the American Pain Society and the American Academy of Pain Management treatment of

chronic non-cancer pain certainly can involve long term usage of opioid and potentially addicting medication in appropriate circumstances. This is definitely one of these. Chronic pain is a disease in and of itself. (Brookoff, D. Chronic Pain; a new disease? Hospital practice. 2000. 7:1-13.) This condition needs chronic treatment. The fact that the patient is being managed, on a grand scale; on fairly "low grade" medication is an accomplishment in and of itself.