

MDR Tracking Number: M5-04-2118-01

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 03-12-04.

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 Buspirone, Bextra, Propox, Ambien, and Ultracet from 3-13-03 through 5-12-03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 from 3-13-03 through 5-12-03 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 28<sup>th</sup> day of July, 2004.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

DA/da

NOTICE OF INDEPENDENT REVIEW DECISION

July 14, 2004

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-2118-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered 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 TMF physician reviewer who is board certified in physical medicine and rehabilitation which is the same specialty as the treating physician, provides health care to injured workers, and licensed by the Texas State Board of Medical Examiners in 1979. The TMF 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 TMF 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 patient sustained a work-related injury on \_\_\_ when he was assaulted by youth while working in a Juvenile Treatment Center. The patient twisted his lower back and complained of sharp lower back pain. An MRI revealed evidence of an L4-5 herniated disc. The patient continued to complain of persistent lower back pain with numbness and tingling in both legs and his toes. The physician treated the patient with a series of epidural steroid injections with some relief. In addition, the treating physician prescribed Buspirone, Bextra, Propox/Acet, Ambien, and Ultracet for medications.

#### Requested Service(s)

Buspirone, Bextra, Propox/Acet, Ambien, and Ultracet prescribed and billed from 03/13/03 through 05/12/03.

#### Decision

It is determined that the Buspirone, Bextra, Propox/Acet, Ambien, and Ultracet prescribed and billed from 03/13/03 through 05/12/03 were medically necessary to treat this patient's condition.

#### Rationale/Basis for Decision

- Ambien: This is a standard sleep medication. This patient apparently was having sleep problems related to anxiety. As such, this medication is reasonable and appropriate in its use.
- Buspar: This is an anxiolyte agent. It reportedly has less sedation and likelihood for abuse and dependency. The anxiety was document in the medical records. Its use is reasonable and appropriate.
- Propoxyphene (Darvocet): This is a class IV analgesic. This patient was complaining of pain. It is a pain medication less likely to lead to dependence and abuse in appropriate use that other pain medications. Its use is reasonable and appropriate.
- Ultram/Ultracet: This is tramadol, an analgesic. Its use for the radicular pain is reasonable and appropriate.

- Bextra: This is a newer COX-2 inhibitor non-steroidal anti-inflammatory drug (NSAID). It is used for both its analgesia and anti-inflammatory properties. While the use of COX-2 inhibitors over other NSAIDs is an ongoing argument for economic reasons, the main rationale for the use of COX-2 inhibitors is to reduce the risk for gastrointestinal bleeding. The use of Bextra is appropriate to treat this patient's condition.

Sincerely,