MDR Tracking Number: M5-05-2232-01

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 03-08-05.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the **majority** of 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 Ambien, Lidoderm and Skelanin **were** found to be medically necessary. The Nexium **was not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services. The reimbursement due from the carrier for the medical necessity issues equals **$813.27.**

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 for dates of service 03-10-04 and 04-08-04 totaling $813.27 in accordance with TWCC reimbursement methodology for pharmaceutical services for dates of service after August 1, 2003 per Commission rule 134.503(a), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Findings and Decision and Order are hereby issued this 12th day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

# MEDICAL REVIEW OF TEXAS

**[IRO #5259]**
**3402 Vanshire Drive Austin, Texas 78738**
**Phone: 512-402-1400 FAX: 512-402-1012**

## NOTICE OF INDEPENDENT REVIEW DETERMINATION

| | |
|---|---|
| TWCC Case Number: | |
| MDR Tracking Number: | M5-05-2232-01 |
| Name of Patient: | |
| Name of URA/Payer: | ReCept LP |
| Name of Provider: (ER, Hospital, or Other Facility) | ReCept LP |
| Name of Physician: (Treating or Requesting) | Daniel Boyle, DO |

May 9, 2005

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 Texas Medical Foundation, 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

Medical Review of Texas (MRT) 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 MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Records submitted for review include the following:

- Clinical notes from Dr. Boyle;
- Medical records from Dr. Neely and Dr. Avila;
- A peer review from Dr. Whitehead;
- A Required Medical Exam by Dr. Choate, DC;
- Medical records from Dr. Garcia;
- Various lab reports, radiological reports and results of EMG/NCV studies.
- Dr. Whitehead peer review dated 3/11/04;
- Dr. Boyle Letter of Medical Necessity dated 9/30/02;
- Dr. Avila – pain management; and
- Dr. Grossman review of Medical Necessity.

Ms. ___ had an injury on ___. She has had a protracted course including treatment with medication, chiropractic care, a muscle stimulator, physical therapy, and epidural steroid injection(s). IDET, spinal cord stimulator, fusion, and pain management were discussed but no records submitted show they were done.

REQUESTED SERVICE(S)

Ambien 10 mg. #30; Lidoderm 5% #60; Skelaxin 800mg #120 and Nexium 40mg #30.

DECISION

Authorize Ambien, Lidoderm and Skelaxin. Deny Nexium.

RATIONALE/BASIS FOR DECISION

As noted in the submitted records, Ms. ___ is still experiencing significant symptoms from an injury on ___ so she is by definition a chronic pain patient. The enclosed records support the medical necessity and benefit for Ambien, Lidoderm and Skelaxin. Although unable to return to work, these medications are improving her ability to perform activities of daily living and decreasing her pain. Ambien is

typically used on a short term basis but for chronic pain patients with altered sleep patterns from their pain, long term use is common and accepted practice. Her most current exams reveal muscle spasms so Skelaxin is still appropriate. However, as Dr. Whitehead noted in his peer review, she should be on Skelaxin or Zanaflex but not both at the same time. Lidoderm is a unique, topical analgesic and is still useful for this patient who has trigger points, muscle spasms, and tender areas on her exam.

The Nexium is a prescription strength PPI. First, the clinical records reviewed do not show a direct correlation to her injury or medications for that injury and the need for Nexium. Dr. Boyle did note in an appeal letter that Nexium 'is used to suppress the abdominal discomfort and nausea caused by other medication." Assuming these symptoms are caused by medications prescribed for her injury, it would be reasonable to attempt OTC PPI or $H_2$ blockers to try to reduce her prescription medications. Therefore, Ambien, Lidoderm, and Skelaxin are authorized but the Nexium is not authorized.