



Texas Department of Insurance, Division of Workers' Compensation  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### Retrospective Medical Necessity Dispute

#### PART I: GENERAL INFORMATION

Type of Requestor: ( ) Health Care Provider (X) Injured Employee ( ) Insurance Carrier

	MDR Tracking No.: M5-07-0120-01 (current MDR #) M4-06-1874-01 (former MDR #)
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  Rep Box # 42	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

#### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: "Prescriptions prescribed for work related injury that I had to pay co-pay out of pocket."

Principle Documentation:

1. DWC 60/Table of Disputed Services
2. Receipts for out-of-pocket expenses

#### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Respondent's Position Summary: "Charges were denied in accordance with the Medical Fee Guidelines. Furthermore, the claim was denied by the insurance carrier... The Respondent is of the position that its denials were appropriate, and seeks an order denying further payments to Requestor."

Principle Documentation:

1. Response to DWC 60

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
03-09-05 and 05-04-05	Plavix	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
02-10-05 to 10-26-05	Ambien (see calculations listed below)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$347.31
02-10-05 to 09-30-05	Hydrocodone/APAP (see calculations listed below)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$180.18
05-04-05	Metformin (see calculation listed below)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$5.00
05-04-05	Avandia (see calculation listed below)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$20.00
06-08-05	Lunesta (see calculation listed below)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$20.00
08-03-05	Vicodin-ES (see calculation listed below)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$99.32
	<b>TOTAL DUE</b>		\$671.81

#### PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the Requestor and Respondent.

The Division has reviewed the enclosed IRO decision and determined that the Requestor **did prevail** on the **majority** of the disputed medical necessity issues.

Out-of-pocket expenses submitted for review for dates 02-25-03 through 06-04-04 were per Rule 133.308(e)(1) not timely filed, therefore, will not be a part of the review.

Hydrocodone/APAP paid for by the Requestor on date of service 10-26-05 in the amount of \$30.68 was reimbursed by the Respondent on 08-21-06 in the amount of \$30.68 via check number 146877, therefore, this out-of-pocket expense is no longer in dispute.

Hydrocodone/APAP and Ambien paid for by the Requestor on date of service 11-02-05 in the amounts of \$30.68 and \$64.54 were reimbursed by the Respondent on 12-07-05 in the amounts of \$30.68 and \$64.54 respectively via check number 137161, therefore, these out-of-pocket expenses are no longer in dispute.

Reimbursement per Rule 134.503(a)(2)(A) is as follows:

**Hydrocodone/APAP – Generic:**

02-10-05:  $\$177.75$  divided by 500 (quantity) =  $\$0.36 \times 120 = \$43.20 \times 1.25 = \$54.00 + \$4.00$  dispensing fee =  $\$58.00$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$3.00**.

03-09-05:  $\$177.75$  divided by 500 (quantity) =  $\$0.36 \times 30 = \$10.80 \times 1.25 = \$13.50 + \$4.00$  dispensing fee =  $\$17.50$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$5.00**.

03-17-05:  $\$177.75$  divided by 500 (quantity) =  $\$0.36 \times 120 = \$43.20 \times 1.25 = \$54.00 + \$4.00$  dispensing fee =  $\$58.00$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$5.00**.

04-13-05:  $\$177.75$  divided by 500 (quantity) =  $\$0.36 \times 120 = \$43.20 \times 1.25 = \$54.00 + \$4.00$  dispensing fee =  $\$58.00$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$5.00**.

05-12-05:  $\$177.75$  divided by 500 (quantity) =  $\$0.36 \times 120 = \$43.20 \times 1.25 = \$54.00 + \$4.00$  dispensing fee =  $\$58.00$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$5.00**.

06-08-05:  $\$177.75$  divided by 500 (quantity) =  $\$0.36 \times 120 = \$43.20 \times 1.25 = \$54.00 + \$4.00$  dispensing fee =  $\$58.00$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$5.00**.

07-07-05:  $\$39.50$  divided by 100 (quantity) =  $\$0.40 \times 120 = \$48.00 \times 1.25 = \$60.00 + \$4.00$  dispensing fee =  $\$64.00$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$19.99**.

08-29-05:  $\$53.20$  divided by 100 (quantity) =  $\$0.53 \times 40 = \$21.20 \times 1.25 = \$26.50 + \$4.00$  dispensing fee =  $\$25.20$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$14.67**.

09-09-05:  $\$61.17$  divided by 100 (quantity) =  $\$0.61 \times 60 = \$36.60 \times 1.25 = \$45.75 + \$4.00$  dispensing fee =  $\$49.75$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$33.32**.

09-20-05:  $\$61.17$  divided by 100 (quantity) =  $\$0.61 \times 60 = \$36.60 \times 1.25 = \$45.75 + \$4.00$  dispensing fee =  $\$49.75$  MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$33.32**.

09-30-05: \$61.17 divided by 100 (quantity) = \$0.61 X 120 = \$73.20 X 1.25 = \$91.50 + \$4.00 dispensing fee = \$95.50  
MAR.

Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$50.88**.

**Ambien – Brand (no generic available):**

02-10-05: \$336.79 divided by 100 (quantity) = \$3.37 X 20 = \$67.40 X 1.09 = \$73.47 + \$4.00 dispensing fee = \$77.47  
MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$30.00**.

03-09-05: \$336.79 divided by 100 (quantity) = \$3.37 X 30 = \$101.10 X 1.09 = \$110.20 + \$4.00 dispensing fee = \$114.20  
MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$21.72**.

04-03-05: \$353.63 divided by 100 (quantity) = \$3.54 X 20 = \$70.80 X 1.09 = \$77.17 + \$4.00 dispensing fee = \$81.17  
MAR.

Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$20.00**.

04-22-05: \$353.63 divided by 100 (quantity) = \$3.54 X 20 = \$70.80 X 1.09 = \$77.17 + \$4.00 dispensing fee = \$81.17  
MAR.

Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$20.00**.

05-12-05: \$353.63 divided by 100 (quantity) = \$3.54 X 20 = \$70.80 X 1.09 = \$77.17 + \$4.00 dispensing fee = \$81.17  
MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$20.00**.

07-07-05: \$353.63 divided by 100 (quantity) = \$3.54 X 5 = \$17.70 X 1.09 = \$19.29 + \$4.00 dispensing fee = \$23.29 MAR.  
Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$15.62**.

08-03-05: \$353.63 divided by 100 (quantity) = \$3.54 X 15 = \$53.10 X 1.09 = \$57.88 + \$4.00 dispensing fee = \$61.88  
MAR.

Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$45.36**.

08-29-05: \$353.63 divided by 100 (quantity) = \$3.54 X 15 = \$53.10 X 1.09 = \$57.88 + \$4.00 dispensing fee = \$61.88  
MAR.

Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$49.78**.

09-09-05: \$353.63 divided by 100 (quantity) = \$3.54 X 5 = \$17.70 X 1.09 = \$19.29 + \$4.00 dispensing fee = \$23.29 MAR.  
Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$19.38**.

09-20-05: \$353.63 divided by 100 (quantity) = \$3.54 X 10 = \$35.40 X 1.09 = \$38.59 + \$4.00 dispensing fee = \$42.59  
MAR.

Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$33.84**.

09-30-05: \$353.63 divided by 100 (quantity) = \$3.54 X 15 = \$53.10 X 1.09 = \$57.88 + \$4.00 dispensing fee = \$61.88  
MAR.

Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$49.78**.

10-26-05: \$353.63 divided by 100 (quantity) = \$3.54 X 5 = \$17.70 X 1.09 = \$19.29 + \$4.00 dispensing fee = \$23.29 MAR.  
Requestor is seeking more than MAR. The Respondent made a payment of \$1.46. Per Rule 134.503(a)(B) recommend additional reimbursement of **\$21.83 (\$23.29 minus payment of \$1.46)**.

**Metformin – HCL – Generic:**

05-04-05: \$70.43 divided by 100 (quantity) = \$0.70 X 30 = \$21.00 X 1.25 = \$26.25 + \$4.00 dispensing fee = \$30.25 MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$5.00**.

**Avandia – Brand (no generic available):**

05-04-05: \$132.04 divided by 60 (quantity) = \$2.20 X 30 = \$66.00 X 1.09 = \$71.94 + \$4.00 dispensing fee = \$75.94 MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$20.00**.

**Lunesta – Brand (no generic available):**

06-08-05: \$370.47 divided by 100 (quantity) = \$3.70 X 20 = \$74.00 X 1.09 = \$80.66 + \$4.00 dispensing fee = \$84.66 MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$20.00**.

**Vicodin-ES – Brand (generic available/prescription written for Brand):**

08-03-05: \$91.30 divided by 100 (quantity) = \$0.91 X 120 = \$109.20 X 1.09 = \$119.03 + \$4.00 dispensing fee = \$123.03 MAR. Requestor is seeking less than MAR; therefore per Rule 134.503(a)(1) recommend reimbursement of **\$99.32**.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.308, 134.1, 134.503(a)(1), 134.503(a)(B) and 134.503(a)(2)(A)  
Texas Labor Code, Sec. 413.031 and 413.011 (a-d)

**PART VII: DIVISION FINDINGS AND ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the Requestor is entitled to reimbursement in the amount of \$671.81. The Division hereby **ORDERS** the Respondent to remit this amount due at the time of payment to the Requestor within 30 days of receipt of this Order.

Order by:

11-29-06

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Date of Order

**PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. The Division is not considered a party to the appeal.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**



Specialty Independent Review Organization, Inc.

**Amended Report 11/20/2006**

November 15, 2006

DWC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient: \_\_\_\_\_  
DWC #: \_\_\_\_\_  
MDR Tracking #: M5-07-0120-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI-Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty 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.

This case was reviewed by a licensed Medical Doctor with a specialty in Neurology. The reviewer is on the DWC ADL. The Specialty IRO 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 Specialty IRO 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**

\_\_\_\_\_ suffered a work related injury on \_\_\_\_\_ while employed by \_\_\_\_\_. There are no details given regarding this injury but he apparently underwent left total knee replacement surgery. He had complaints of right knee pain. Also, \_\_\_\_\_ has a history of obesity and hypertension.

He has been under the care of Dr. Donald Hearn from North Shore Medical Associates. He was also seeing Dr. Viet Nguyen apparently for pain management. There were no notes submitted from Dr. Nguyen.

Records from Dr. Hearn indicate prescriptions for multiple medications including Ambien, hydrocodone, Vicodin, Plavix, Avandia, metformin and Lunesta.

Dr. Hearn submitted multiple requests for perspective review of medical care not requiring pre-authorization. These were not dated. On one form, the medications requested included a 90 day supply of Ambien, 5 mg one p.o. q h.s.; hydrocodone 5/500 mg one p.o. q 4 to 6 hours p.r.n., #90. The reason for the medications were pain, difficulty walking, sitting and sleeping. Again, these forms were not dated.

According to the pharmacy records from CVS pharmacy, prescriptions written by Dr. Hearn were submitted for hydrocodone 7/750 on 03-09-05; Plavix 75 mg on 03-09-05; Ambien 10 mg on 03-09-05; hydrocodone 7.5/750 on 03-17-05; Avandia 2 mg on 05-04-05; metformin 500 mg on 05-04-05; Plavix 75 mg on 05-04-05.

On 04-03-05 \_\_\_\_\_ filled a prescription from Dr. Nguyen for Ambien 10 mg. On 04-22-05 he filled another prescription from Dr. Nguyen 10 mg. On 05-12-05 he filled a prescription from Dr. Nguyen for Ambien 10 mg. On 06-08-05 he filled a prescription from Dr. Nguyen for Lunesta 2 mg and on 06-08-05 he filled a prescription for hydrocodone from Dr. Nguyen.

There were also repeated prescriptions filled from 07-07-05 thru 10-26-05 for Ambien, hydrocodone and Vicodin.

## RECORDS REVIEWED

- 1) Pharmacy report from CVS Pharmacy dated 01-01-03 thru 09-20-05.
- 2) Connexus Pharmacy System, Sam's Pharmacy report dated 07-07-05 thru 10-26-05.
- 3) Office records and TWCC documents and copies of prescriptions by Dr. Donald Hearn dated 03-30-06 thru date unknown.
- 4) Correspondence from TWCC to Dr. Hearn dated 03-23-05 and 06-14-05.
- 5) Correspondence to Texas Department of Insurance Division of Workman's Compensation from Attorney Brandi Prejean dated 05-31-06.
- 6) TWCC Medical Interlocutory order dated 10-31-05.
- 7) Correspondence to \_\_\_\_\_ from Charmaine Rivers Ward Strategic Claims Solutions.

## DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of Ambien, hydroco/  
APAP, Vicodin, Plavix, Avandia, Metformin and Lunesta from 2/10/2005 through 10/26/2005.

## DECISION

The reviewer agrees with the previous adverse determination regarding Plavix 75 mg. However, the reviewer disagrees with the previous adverse determination regarding all other medications.

## BASIS FOR THE DECISION

\_\_\_\_\_ has chronic knee pain related to a work related injury on \_\_\_\_\_. There are no actual records submitted regarding the nature of the injury. He did have knee replacement surgery but has a history of a chronic meniscle tear and chronic knee pain on the contralateral side. His pain has been managed by Dr. Nguyen, pain management specialist, and then by his primary care physician Dr. Hearn. His medications appear to be appropriate for the nature of his chronic pain except for Plavix 75 mg as this would not be related to \_\_\_\_\_'s chronic knee pain.

## REFERENCES

Schnitzer TJ.

Update on guidelines for the treatment of chronic musculoskeletal pain.

Clin Rheumatol. 2006 Jul;25 Suppl 7:22-9. Epub 2006 Jun 2.

PMID: 16741783 [PubMed - in process]

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that the reviewing provider has no known conflicts of interest between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director

**Your Right To Appeal**

**If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.**

**If you are disputing the decision, the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.**

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the Division via facsimile, U.S. Postal Service or both on this 20th day of November, 2006.**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative: Wendy Perelli**