

VONO,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
V.	§	OF
	§	
AMERICAN HOME ASSURANCE	§	
COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

I. Procedural History

VONO (Petitioner) appealed the findings and decision of the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (Commission). The Commission referred the dispute to an Independent Review Organization (IRO), which denied reimbursement from American Home Assurance Company (Carrier) for prescription medications provided to Claimant. The only issue is whether the medications were medically necessary.

As set out in the findings of fact and conclusions of law below, the Administrative Law Judge (ALJ) finds that the prescriptions were both medically necessary and reasonable and that reimbursement of \$1,173.80 is appropriate in this case. The particular facts and reasoning in support of this decision are set forth below in the findings of fact, and the legal conclusions derived from those facts appear in the conclusions of law.

ALJ Wendy Harvel convened the hearing on May 5, 2003, at the State Office of Administrative Hearings, 300 West 15th Street, Austin, Texas. The hearing concluded and the record closed on that date. Nicky Otts represented Petitioner and appeared by telephone. Steve Tipton, attorney, represented Carrier.

II. Evidence

The evidence in this case consisted of the documents submitted to the IRO and certain additional documentation, including a letter regarding the medical necessity of the medications from the treating physician.

III. Findings of Fact

1. On ____, Claimant suffered a compensable injury to his hip and lower back.
2. Claimant's injury is covered by worker's compensation insurance held by Claimant's employer, with American Home Assurance Company (Carrier) as the insurance carrier.
3. Dr. Salvador Baylan, Claimant's treating physician prescribed Pepcid, Aloe Liniment, Celebrex, and Lortab to treat Claimant's pain and inflammation as a result of his injury.
4. Carrier disputed the prescriptions provided for dates of service November 5, 2001 and December 4, 2001.

5. Claimant was suffering from pain and inflammation as a result of his injury.
6. Claimant's medical condition warranted the use of medications to relieve the symptoms he suffered.
7. The medication Celebrex relieved the pain and inflammation resulting from Claimant's injury.
8. The medication Pepcid relieved the side effects of the medically necessary medication, Celebrex.
9. The aloe liniment relieved the pain and inflammation resulting from Claimant's injury.
10. The medication Lortab relieved the pain resulting from Claimant's injury.
11. While taking these medications, Claimant was able to work.
12. When not taking the medications, Claimant was unable to work.
13. VONO (Petitioner) filled the prescriptions for all four medications.
14. Petitioner submitted the charges for the medications to Carrier, totaling \$1,173.80.
15. Carrier denied payment for the medications on the ground that the medications were not medically necessary.
16. Petitioner timely requested dispute resolution by the Texas Workers' Compensation Commission (Commission).
17. The Commission assigned an Independent Review Organization (IRO) to review the disputed issues.
18. On January 9, 2003, the IRO issued an opinion that the medications were not medically necessary.
19. On January 29, 2003, the Medical Review Division (MRD) of the Commission issued its decision denying reimbursement.
20. On February 10, 2003, Petitioner appealed the MRD findings and decision.
21. On March 18, 2003, the Commission issued a notice of hearing to the parties. The notice contained a statement of the time and place of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.

IV. Conclusions of Law

1. The State Office of Administrative Hearings has jurisdiction over matters related to this proceeding, including the authority to issue a decision and order, pursuant to § 413.031(k) of the Act and TEX. GOVT. CODE ANN. ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. § 2001.052.
3. As the party appealing the MRD decision, the Petitioner has the burden of proof in this matter, pursuant to 28 TEX. ADMIN. CODE § 148.21(h).
4. Under TEX. LAB. CODE §408.021(a), an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to health care that:
 - (1) Cures or relieves the effects naturally resulting from the compensable injury;
 - (2) Promotes recovery; or
 - (3) Enhances the ability of the employee to return to or retain employment.
5. Based on the findings of fact, the prescriptions written by Claimant's treating physician were medically reasonable and necessary.
6. Petitioner is entitled to reimbursement for the prescriptions under TEX. LAB. CODE §§413.015 and 408.021(a).
7. The Carrier should reimburse the Provider for the prescriptions filled for Claimant in the amount of \$1,173.80.

ORDER

IT IS ORDERED THAT VONO's request for reimbursement of \$1,173.80, plus interest, from the Carrier is granted and American Home Assurance Company. is ORDERED to reimburse VONO this amount.

Signed this 12th day of May, 2003

STATE OFFICE OF ADMINISTRATIVE HEARINGS

**WENDY K. L. HARVEL
ADMINISTRATIVE LAW JUDGE**