

VONO, § BEFORE THE STATE OFFICE
Petitioner §
§
VS. §
§ OF
AMERICAN GUARANTEE & §
LIABILITY INSURANCE COMPANY, §
Respondent § ADMINISTRATIVE HEARINGS

DECISION AND ORDER

VONO challenges the denial of reimbursement by American Guarantee & Liability Insurance Company (American) for prescription drugs and liniment provided to an injured worker (Claimant). The Administrative Law Judge concludes VONO failed to demonstrate the medical necessity of the drugs and liniment for the treatment of Claimant's compensable injury. Consequently, reimbursement is denied.

I. Findings of Fact

1. Claimant suffered a compensable back injury in ____.
2. On three dates of service, Claimant's treating physician prescribed drugs and a liniment for Claimant. The following charges are in dispute:

<u>Date of Service</u>	<u>Item</u>	<u>Amt. Billed</u>	<u>Amt. Paid</u>
1-25-02	Celebrex 200 mg.	\$ 91.42	\$ 0.00
2-12-02	Coats Aloe Vera Liniment	52.44	0.00
2-15-02	Ultracet 37.5/325 #40	42.17	0.00
2-15-02	Carisoprodol 350 mg. #45	<u>45.44</u>	<u>0.00</u>
Total		\$231.47	\$ 0.00

3. VONO filled the prescriptions and seeks reimbursement from American Guarantee & Liability Insurance Company (American), the insurance carrier providing coverage for Claimant's compensable injury.
4. American refused reimbursement for the drugs and liniment, for which VONO seeks reimbursement before the State Office of Administrative Hearings (SOAH).
5. Notice of the hearing was mailed to the parties December 11, 2000. The notice contained a statement of the time, place, and nature 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.

6. The hearing in this case convened on August 5, 2003, and closed August 8, 2003, before ALJ Gary Elkins. VONO appeared and was represented by Nicky Otts. American appeared and was represented by Attorney Rebecca Strandwitz.
7. VONO failed to demonstrate how each of the prescribed drugs and the liniment were used to treat Claimant.
8. VONO failed to prove that any of the prescribed drugs or the liniment assisted in treating Claimant's compensable injury.
9. No demonstrated medical need exists for the drugs and liniment dispensed to the injured worker on January 25, 2002, February 12, 2002, or February 15, 2002, for the treatment of his compensable injury.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to Section 413.031 of the Texas Workers' Compensation Act (the Act), TEX. LAB. CODE ANN. chapter 401 et seq.
2. SOAH has jurisdiction over this proceeding pursuant to §413.031(d) of the Act and TEX. GOV'T CODE ANN. ch. 2003.
3. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. VONO has the burden of proof in this matter. 28 TEX. ADMIN. CODE §148.21(h).
5. VONO failed to prove the prescribed drugs and liniment were medically necessary to treat Claimant's compensable injury.

ORDER

IT IS ORDERED that VONO is not entitled to reimbursement for the drugs and liniment dispensed to the injured worker on January 25, 2002, February 12, 2002, and February 15, 2002.

SIGNED October 3, 2003.

GARY W. ELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS