

<b>MEDI-PLUS PHARMACY,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
<b>V.</b>	§	<b>OF</b>
	§	
<b>LUMBERMAN'S UNDERWRITING</b>	§	
<b>ALLIANCE,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

## DECISION AND ORDER

Medi-Plus Pharmacy (Petitioner) appealed the findings and decision of the Texas Workers' Compensation Commission's designee, an independent review organization (IRO), which found that prescriptions that Petitioner provided a workers' compensation claimant (Claimant) were not medically necessary healthcare. The IRO's decision upheld a denial of reimbursement by Lumberman's Underwriting Alliance (Carrier/Respondent). This decision and order finds the prescriptions were not medically necessary for Claimant.

### I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

There were no contested issues of jurisdiction or notice. Those issues are set out only in the Findings of Fact and Conclusions of Law below.

The hearing in this matter convened and the record closed December 1, 2003, before State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) Ann Landeros. Petitioner's designated employee representative Richard Garcia represented Petitioner and attorney Steven Tipton represented Respondent. The Commission Staff did not participate in the hearing.

### II. DISCUSSION

#### A. Factual Background

Claimant sustained a compensable injury to his hand in \_\_\_\_\_. At the time of the injury, Carrier was the workers' compensation insurer for Claimant's employer. Claimant was treated at Texas Pain Solutions by Drs. Masoor Ahmed and Rezig Sager, who prescribed various medications, including Zantac (ranitidine) and Skelaxin, to treat the compensable injury.

Carrier denied payment for the following prescriptions that Petitioner filed for Claimant: ranitidine on December 19, 2001; ranitidine on March 13, 2002; and Skelaxin on March 13, 2002.

Carrier based its denial on the lack of medical necessity. The IRO upheld Carrier's denial, stating:

Skelaxin is a muscle relaxant and is indicated as an adjunct to rest, physical therapy and other measures for the relief of discomforts associated with acute, painful

musculoskeletal conditions. . . . Skelaxin is indicated for spasms of the larger muscles of the body and would not primarily be used for a hand injury.

Ranitidine is a competitive, reversible inhibitor of the action of histamine and the histamine H2 receptor. Ranitidine is indicated in treatment of duodenal and gastric ulcers, erosive esophagitis and gastric hypersecretory conditions. . . . Naproxen and other non-steroidal anti-inflammatory medications can cause irritation and bleeding to the gastric lining. This is not a secretory phenomenon and therefore ranitidine would provide no benefit or protection to Naproxen-induced gastric irritation.

Petitioner timely appealed the denial.

## **B. Legal Standards**

Petitioner has the burden of proof in this proceeding. 28 TEX. ADMIN. CODE (TAC) §§ 148.21(h) and (i); 1 TAC § 155.41. Pursuant to the Texas Worker's Compensation Act (Act), an employee who has sustained 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 cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. TEX. LAB. CODE ANN. § 408.021(a). Health care includes all reasonable and necessary medical services. TEX. LAB. CODE ANN. § 401.011(19)(A). The IRO was authorized to hear the medical dispute pursuant to 28 TAC §§ 133.308.

## **C. Evidence and Argument**

Petitioner proffered no admissible evidence.

Carrier argued that the IRO correctly stated that neither ranitidine or Skelaxin were medically necessary drugs for Claimant's compensable injury. To support its position, Carrier cited to peer reviews by Dr. Casey Cochran, D.O.

In a peer review in June 2002, Dr. Cochran opined that none of the prescriptions, including Skelaxin and ranitidine, were appropriate to treat Claimant's condition. He wrote:

The use of Zanax, which is an anti-ulcer medication, is not indicated for this claimant. I note that this medication is often prescribed by physicians when individuals are taking non-steroidal anti-inflammatories as a protectant against the side effects of the anti-inflammatories. . . . A medication such as Zantac (ranitidine hydrochloride) provides its mechanism by decreasing the amount of stomach acid. However, a medication such as a non-steroidal does not irritate the stomach by causing an increase in stomach acid. The medication has a direct effect upon the stomach. The Zantac does not do anything to prevent the direct action of the medication. (Carrier Exh. 1, p. 26).

Dr. Cochran thought the Zantac was actually contraindicated for because it could mask the symptoms of gastric bleeding. *Ibid.* Regarding the Skelaxin prescription, Dr. Cochran wrote:

Further, it is noted that the claimant was prescribed Skelaxin. Muscle spasm is not this claimant's problem. Therefore, there is no rational basis that I can see for the prescribing of Skelaxin. *Id.*

Dr. Cochran reiterated this opinion in a second peer review done in September 2002 and in a letter dated November 26, 2003. Carrier Exh. 1, p. 35-36. In the letter, Dr. Cochran noted that the clinical literature indicates Skelaxin is primarily useful in the acute phase of the injury, which Claimant was well past in 2001 and 2002. (Carrier Exh. 2, p. 1).

#### **D. Analysis**

Not only did Petitioner fail to meet its burden of proof, but Carrier's evidence also affirmatively established that the prescriptions were not medically necessary for Claimant. The only evidence presented in this case established that neither Skelaxin nor ranitidine were medically necessary to treat Claimant's compensable hand injury in December 2001 or March 2002. Skelaxin is a large muscle relaxant so it is not appropriate for pain relief in a hand. Ranitidine helps reduce stomach acidity. Because the medications causing Claimant's gastric upset did not do so by increasing stomach acidity, the ranitidine was ineffective for Claimant's stomach problems.

### **III. FINDINGS OF FACT**

1. In \_\_\_\_, Claimant sustained an injury to his right hand compensable under the Texas Workers' Compensation Act (Act).
2. At the time of the compensable injury, Claimant's employer had workers' compensation insurance coverage with the Lumberman's Underwriting Alliance (Carrier/Respondent).
3. Claimant was treated at Texas Pain Solutions by Drs. Masoor Ahmed and Rezig Sager, who prescribed various medications, including Zantac (ranitidine) and Skelaxin, to treat the compensable injury.
4. Carrier denied payment for the following prescriptions that Medi-Plus Pharmacy (Petitioner) filled for Claimant: (1) Ranitidine on December 19, 2001; (2) Ranitidine on March 13, 2002; and (3) Skelaxin on March 13, 2002. Petitioner's appeal of the denial was considered by the Commission's Independent Review Organization (IRO).
5. The IRO's decision upheld Carrier's denial of reimbursement on the basis that the prescriptions were not medically necessary. Petitioner timely appealed that decision.
6. The Commission's notice of hearing stated the date, time, and location of the hearing and cited to the legal statutes and rules involved along with a short, plain statement of the factual matters involved.
7. Petitioner and Respondent were represented at the hearing but the Commission Staff chose not to participate.
8. Skelaxin is a drug that relaxes large muscles and so is inappropriate to treat a hand injury because the hand does not have the sort of large muscles affected by the drug.

9. Ranitidine reduces stomach acid.
10. The drugs causing Claimant's gastric problems did not increase stomach acid and so ranitidine would not help with the gastric problems caused by these drugs.
11. Neither Skelaxin nor ranitidine were medically necessary for Claimant's compensable injury.

#### **IV. CONCLUSIONS OF LAW**

1. The Texas Workers' Compensation Commission (Commission) has jurisdiction over this matter pursuant to the Texas Workers' Compensation Act (Act), TEX. LAB. CODE ANN. § 413.031.
2. The State Office of Administrative Hearings has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to § 413.031(d) of the Act and TEX. GOV'T CODE ANN. ch. 2003.
3. The IRO was authorized to hear the medical dispute pursuant to 28 TEX. ADMIN. CODE (TAC) § 133.308.
4. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and the Commission's rules, 28 TAC § 133.308(u).
5. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
6. Petitioner had the burden of proof in this proceeding. 28 TAC §§ 148.21(h) and (i); 1 TAC § 155.41.
7. Pursuant to the Act, an employee who has sustained 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 cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. TEX. LAB. CODE ANN. § 408.021(a).
8. Health care includes all reasonable and necessary medical services. TEX. LAB. CODE ANN. § 401.011(19)(A). A medical benefit is a payment for health care reasonably required by the nature of the compensable injury. TEX. LAB. CODE ANN. § 401.011(31).
9. Petitioner is not entitled to reimbursement for the ranitidine dispensed December 19, 2001, or March 13, 2002, or the Skelaxin dispensed March 13, 2002, to Claimant.

**ORDER**

It is ORDERED that Medi-Plus Pharmacy is not entitled to reimbursement by Lumberman's Underwriting Alliance for the ranitidine dispensed December 19, 2001, or March 13, 2002, or the Skelaxin dispensed March 13, 2002, to Claimant.

**SIGNED December 12, 2003.**

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**ANN LANDEROS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**