

**G. Level Two Appeal Item Number Seven (7)**

**Cigna's own Drug and Alcohol Policy and a medical study published in Psychopharmacology (2003) entitled *Characterizing the subjective, psychometer, and physiological effects of oral oxycodone in non-abusing volunteers* – James Zacny, Sandra Gutierrez supports the diagnoses and conclusions of Dr. XXXX, Dr. XXXX, Dr. XXXX and Nurse claim manager Karen Haley.**

Throughout this appeal it is illustrated that Cigna's assertion that oxycodone (in the 20mg dosages prescribed to Mr. XXXX) only impacts the ability to "drive" was built on a logical fallacy and misconstruction of the Peer Review report. It should also be noted that it is unsupported by medical evidence. Dr. James Zacny and Dr. Sandra Gutierrez performed a study published in Psychopharmacology (2003) entitled *Characterizing the subjective, psychometer, and physiological effects of oral oxycodone in non-abusing volunteers* that found psychometer and cognitive impairment; VAS ratings of "coasting ['spaced out']", "heavy sluggish feeling", "lightheaded", "difficulty concentrating" and "nauseous"; and Increased MBG [Euphoria] after ingestion of 20mg or 30 mg oxycodone. The study concluded that physicians should discourage patients taking **heavy doses** (20mg or 30 mg) of oxycodone from making important decisions and driving. (Emphasis added) The study is consistent with Dr. XXXX's diagnoses in the IME report regarding "cognitive impairment"; Dr. XXXX's repeated diagnoses regarding the effects of Oxycontin on "judgment related to work and travel"; Dr. XXXX's agreement with Dr. XXXX and Dr. XXXX in the Peer Review noting pain management requiring of "heavy doses" of narcotics; and Nurse claim manager Karen Haley's conclusion "because of cx's OxyContin use he would be unable to work". It is inconsistent with Cigna's assertion regarding "driving only".

Additionally Cigna's own Drug and Alcohol Policy does not support Cigna's assertion regarding an employee's use of narcotics and "driving only". On March 19, 2007 Mr. XXXX requested Cigna's policy on narcotics:

Dear Cigna Human Resources,

Your career website does not list a policy regarding controlled substances. I am currently prescribed daily doses of the narcotic medication oxycontin for pain. I would like to know what Cigna's policy is regarding the workplace and narcotic pain medications.

On March 21, 2007 Cigna's Katie Witkowski provided Mr. XXXX with Cigna's policy regarding "Prescription Drugs":

Employees using prescription drugs according to their physician's directions need to discuss any job and/or safety concerns as a result of taking those prescription drugs with the issuing physician or an approved company medical representative. If an employee is taking a medically prescribed drug/substance that might affect

performance, it is that employee's responsibility to advise the supervisor of this fact before reporting to work. Employees who are found using prescription drugs in a manner in which they were not intended will be subject to disciplinary action up to and including termination of employment.

Mr. XXXX would be obligated to tell Cigna or any employer with a drug policy that his physician instructed him that his narcotic medications “impair his judgment relating to work and travel” and “employment options that require clear sustained mental faculties” are not an option for him. In fact Mr. XXXX would be responsible “to advise the supervisor of this fact before reporting to work” according to the Drug and Alcohol Policy. It is highly doubtful Cigna would run the legal risk of twisting the words “work”, “travel” and “mental faculties” into “driving only” were Mr. XXXX an employee or prospective employee of Cigna. The same applies to any other company with a drug and alcohol policy written by a competent attorney. Cigna’s Drug and Alcohol Policy regarding prescription narcotics is consistent with the study in *Psychopharmacology* presented above. The medical and legal community knows that narcotics impair much more than “driving”. Cigna’s attempt to distort and twist Dr. XXXX’s, Dr. XXXX’s and Registered Nurse Haley’s words regarding Oxycontin is untenable.