

K. Appeal Item Number Eleven (11)

The transferable skills analysis dated April 28, 2005 relied upon in making the adverse determination illustrates Cigna's pattern of selective review and self serving decisions that are contrary to Cigna's fiduciary duty to act in the beneficiary's best interests.

1. The statement "the target wage requirement for this assessment was described as \$1,350 per (approximately \$7.87 per hour)" is entirely incorrect as illustrated above in appeal item number three (3).
2. Noticeably absent from the "records provided for review" indicating a selective review:
 - a. The Independent Medical Evaluation Addendum dated March 16, 2006 wherein Dr. XXXX discusses Mr. XXXX's pain complaints, degeneration of the knees, inability to apply a standard recovery time and medications. Considering Cigna Team Leader Beth Spicer required further clarification from the IME and ordered the Addendum (Email to R. White 3/7/06) it certainly should have been reviewed.
 - b. The four day surveillance report prepared for Cigna by XXXX Inc and the letter from Jenna Holder, Cigna to Barbie Rice, Cigna dated January 23, 2006 that summarizes the surveillance by stating that Mr. XXXX was "verified home and inactive....Further investigation is not warranted at this time."
 - c. The State of Pennsylvania law involving *Minimum Levels of Controlled Substances or Their Metabolites in Blood to establish presence of Controlled substances* that was sent to Cigna by Mr. XXXX in numerous correspondences requesting placement of the document in the medical file. Mr. XXXX's prescription for oxycodone to control pain would render him "under the influence" or "intoxicated" under Pennsylvania Law.
3. The statement "the physician noted under *fine manipulation* that it was not applicable to the diagnosis, however remarked "may be limited by affects of medication" is inconsistent with Dr. XXXX's list of "Disabling Diagnosis" wherein he lists "mild cognitive impairment related to narcotic use." as a diagnosis and mentions in answer number fifteen (15) "medication side effects".
4. The statement "the physician did not specify time periods in terms of moving around" is addressed in appeal item number six (6).
5. The statement "within the IME narrative report, it was mentioned that the claimant does do some driving short distances, however, the IME physician did specify need for access to public transportation" was completely fabricated. The IME report does