

STATE OFFICE OF ADMINISTRATIVE HEARINGS
300 West 15th Street, Suite 502
Austin, Texas 78701

DOCKET NO. 453-03-1284.M2
[MDR TRACKING NO. M2-02-0692-01]

JOHN A. SAZY, M.D.,
PETITIONER

vs.

City of Ft. Worth
RESPONDENT

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

John A. Sazy (Petitioner) challenges the findings and decision upholding the denial of preauthorization by City of Ft. Worth for an MRI based on lack of medical necessity. This decision finds Petitioner established the requested procedure is medically necessary.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There were no contested issues of jurisdiction or notice. Therefore, those issues are addressed in the findings of fact and conclusions of law without further discussion here.

The hearing in this matter convened and closed on March 25, 2003, at the State Office of Administrative Hearings, 300 W. 15th Street, Austin, Texas, with Administrative Law Judge (ALJ) John Beeler presiding. Petitioner appeared *pro se*. Respondent Carrier was represented by attorney Robert Josey. The Commission did not appear or participate in the hearing. After receipt of evidence and argument, the record closed that same day. This case was subsequently transferred to ALJ Melissa M. Ricard, who reviewed the record and issues this decision.

II. DISCUSSION

A. Background Facts

On _____, a worker (Claimant) fell off a horse while she was working as a _____. On September 8, 2000, her company's physician, Brian Rodgers, M.D., ordered an MRI which revealed a subtle sacral fracture at S3. Intermittently over the next to years, the Claimant was treated with pervious therapies, epidural steroid and other injections, and medications. On March 12, 2002, the Claimant saw the Petitioner because she still experienced back pain. The Petitioner recommended a second MRI, among other things. The sole issue in this case is whether the recommended MRI is medically necessary.

B. Evidence

The Petitioner testified that the pain the Claimant was experiencing when he interviewed her in March 2002, was directly related to her on-the-job injury in _____. The Petitioner initiated an investigative study to determine the etiology of her pain from an anatomical perspective. The MRI done about a month after her injury was two years old and not helpful to the Petitioner in determining the causes of the Claimant's pain and effective treatment for the pain. The Petitioner testified that an MRI done too close to the date of injury might not reflect the true extent of the injury since anatomical trauma on a disc may not show up on an MRI for at least six months.

On July 25, 2002, Patrick W. Donovan, M.D., P.A. , interviewed the Claimant and performed an electrodiagnostic testing of her Claimant's bilateral lower extremities. Dr. Donovan found that the Claimant's EMG was normal and that there was no evidence to indicate lumbosacral radiculopathy, myopathy, peripheral neuropathy, or focal compression neuropathy. Dr. Donovan found that "a repeat MRI is in order to rule out any new sign of structural abnormalities in the lumbar pain. It has been almost two years since her initial MRI scan and certainly there can be ongoing changes since that time causing her persistent pain."

The initial MRI found the hard part of the Claimant's pelvis was damaged by the injury and was fractured. The Petitioner testified that damage to the soft part of her pelvis was entirely logical and consistent with the findings of initial the MRI, but would not have shown up when the MRI was conducted. Therefore, an additional MRI is medically necessary at this time to properly treat the Claimant.

On March 20, 2002, the Carrier denied preauthorization for an additional MRI because the initial MRI revealed no disc pathology. When the Provider requested further reconsideration, the Carrier still denied preauthorization because the initial MRI revealed no disc herniation and no canal or foraminal stenosis. The fact that there was no documentation of PARS defect, subluxation, or ligamentous injury and the facets were not reported as abnormal also caused the Carrier to deny preauthorization for a second MRI.

On October 31, 2002, the IRO agreed with the Carrier, finding that at the time the dispute was filed, it did not appear that the Claimant had experienced any change in her clinical status to warrant the second MRI. The IRO found that the initial MRI could be used to make medical decisions regarding her spine. However, the IRO acknowledged that changes in symptomatology could necessitate an additional MRI.

C. Analysis

Petitioner has the burden of proof in this case. The Petitioner showed that an additional MRI is medically necessary. Carrier's position regarding the sufficiency of the prior MRI done about a month after the injury is not supported by the evidence presented in this case. The initial MRI showed damage to the hard part of the Claimant's pelvis, the Petitioner proved that an additional MRI is medically necessary for evaluation and treatment of the surrounding soft tissues. Therefore, the Petitioner carried his burden in this case.

III. FINDINGS OF FACT

1. On _____, _____ an injured worker (Claimant) suffered an on-the-job injury when she fell off a horse while working as a _____ for _____.
2. As a result of her compensable injury, Claimant suffered a sacral fracture and pain, which was verified by an initial MRI done about a month after the injury.
3. Claimant was treated with pervious therapies, epidural steroid, and other injections and medications.
4. On March 12, 2002, the Claimant saw the Petitioner because she still complained of back pain. The Petitioner recommended a second MRI since the initial MRI showed the fracture but may have been done too close in time to show damage to the soft part of the Claimant's pelvis.
5. On going changes in the Claimant's pelvis and surrounding area are logically the cause of the Claimant's current symptoms.
6. Carrier denied Petitioner's request for preauthorization of the MRI.
7. Petitioner timely appealed the findings and decision of the Texas Workers' Compensation Commission's Medical Review Division, which upheld Carrier's denial of preauthorization.
8. Petitioner and Carrier appeared or were represented at the hearing in this matter.
9. A second MRI is a medically necessary treatment of Claimant's compensable injury.

IV. CONCLUSIONS OF LAW

10. The Texas Workers' Compensation Commission (Commission) has jurisdiction related to this matter pursuant to § 402.001 of the Texas Workers' Compensation Act (Act), TEX. LABOR CODE ANN.
11. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in 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.
12. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and the Commission's rules, 28 TEX.ADMIN.CODE (TAC) §133.305(g).
13. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
14. Petitioner has the burden of proof in this proceeding. 28 TAC §§ 148.21(h) and (i).

15. 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).
16. Health care includes all reasonable and necessary medical services. TEX. LAB. CODE ANN. §401.011(19)(A).
17. An additional MRI is medically necessary to properly treat the Claimant pursuant to TEX. LAB. CODE ANN. § 408.021(a).
18. Petitioner's request for an additional MRI should be preauthorized.

ORDER

IT IS ORDERED that the preauthorization request of John A. Sazy, M.D. (Petitioner) for an MRI for Claimant _____ is granted.

SIGNED this 23rd day of April, 2003.

MELISSA M. RICARD
Administrative Law Judge