

DOCKET NO. 453-03-1526.M2
[MDR TRACKING NO. M2-03-0278-01]

JOHN A. SAZY, M.D.,	§	BEFORE THE STATE OFFICE
<i>Petitioner</i>	§	
	§	
VS.	§	
	§	
	§	OF
AMERICAN CASUALTY COMPANY	§	ADMINISTRATIVE HEARINGS
<i>Respondent.</i>	§	

DECISION AND ORDER

John A. Sazy, M.D. (Provider), challenged the decision of American Casualty Company (Carrier) denying preauthorization for epidural steroid injections (ESI) and facet injections. In this decision, the Administrative Law Judge (ALJ) finds that the requested procedures should not be preauthorized.

The hearing convened and closed on May 21, 2003, before Steven M. Rivas, Administrative Law Judge (ALJ). Carrier appeared and was represented by Jane L. Stone, attorney. Despite being sent proper notice, Provider failed to appear, or have representation at the hearing. Based on the Provider's failure to appear, the hearing proceeded on a default basis.

I.
DISCUSSION

1. Background Facts

Provider submitted a request for preauthorization for ESI and facet injections for Clamant, _____. Carrier denied preauthorization as not medically necessary, and the dispute was referred to an Independent Review Organization (IRO). The IRO decision agreed with the Carrier that the requested procedures were not medically necessary. Provider appealed the IRO decision to the State Office of Administrative Hearings (SOAH).

The notice of hearing met the notice requirements imposed by statute and rule. The details about notice to Provider are set forth in the findings of fact and conclusions of law without further discussion here.¹ After introduction of exhibits related to notice, jurisdiction, and substantive allegations, Carrier moved for a default. Based on the Provider's failure to appear, the ALJ admitted Carrier's evidence.

¹ The original notice of hearing was sent to the parties on December 20, 2002. The hearing was continued three times before the current setting. At the time of the hearing, the ALJ attempted to contact Provider at its designated phone number, to no avail.

2. ESI and Facet Injections

Michael M. Albrecht, M.D. testified on behalf of the Carrier and asserted he reviewed all of Claimant's medical records and agreed with the IRO decision that the requested procedures were not medically necessary. Dr. Albrecht testified he has extensive experience in treating patients with the same injuries as Claimant, and is experienced in determining when and if ESI and facet injections should be prescribed.

Dr. Albrecht asserted ESI injections are typically prescribed at the onset of radicular pain, but the records do not reflect any objective findings that Claimant was suffering from radicular pain.

Dr. Albrecht testified this is due in large part to the "sparse" findings Provider noted on Claimant's records. Additionally, Dr. Albrecht testified an EMG or nerve conduction study should be done to determine whether or not Claimant is suffering from radicular pain.²

As for the facet injections, Dr. Albrecht testified a patient is usually prescribed this treatment to relieve pain from a facet joint in the lumbar spine. According to Dr. Albrecht, a patient usually complains of back pain and exhibits other "corroborating symptoms" during a physical examination; however, no such symptoms were noted in Provider's records after Provider performed a physical examination of Claimant. Dr. Albrecht admitted Claimant's MRI results revealed Claimant had facet arthrosis but noted this condition alone does not warrant the need for facet injections unless other "provocative signs" of back pain were noted on Claimant's physical exam.

C. Conclusion

Based on the Provider's failure to appear and the evidence presented by Carrier, the ALJ concludes the requested procedures are not medically necessary and should not be preauthorized.

II. FINDINGS OF FACTS

1. John A. Sazy, M.D. (Provider) prescribed epidural steroid injections (ESI) and facet injections to _____ (Claimant) and sought preauthorization from American Casualty Company (Carrier), which Carrier denied.
2. Provider requested medical dispute resolution through an Independent Review Organization (IRO). The IRO reviewed the dispute and issued a decision on November 25, 2002, finding that the requested procedures were not medically necessary.
3. Provider appealed the IRO decision to the State Office of Administrative Hearings (SOAH).

² There is no record to indicate an EMG or nerve conduction study has been performed in this case.

4. The original notice of the hearing in this case was sent to the parties on December 20, 2002. An order setting the hearing to May 21, 2003, was sent to the parties on April 8, 2003. 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. In the original notice, the Commission's staff indicated that it would not participate in the hearing.
5. The hearing convened and closed on May 21, 2003, before Steven M. Rivas, Administrative Law Judge (ALJ). Carrier appeared and was represented by Jane L. Stone, attorney. Provider failed to appear.
6. Provider's records do not contain sufficient objective findings that would warrant the need for ESI and facet injections.
 1. No nerve conduction study was performed to determine if Claimant had any radicular pain.
 2. No EMG was performed to determine if Claimant had any radicular pain.
 3. Claimant did not display the typical symptoms and provocative signs that would support the need for facet injections.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to TEX. LAB. CODE § 413.031.
2. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. §413.031(d) and TEX. GOV'T CODE ANN. ch. 2003.
3. Claimant timely filed its notice of appeal, as specified in 28 TEX. ADMIN. CODE § 148.3.
4. Proper and timely notice of the hearing was effected upon the parties according to TEX. GOV'T CODE § 2001.052 and 28 TEX. ADMIN. CODE § 148.4.
5. Under TEX. LABOR CODE § 408.021(a)(1), an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed that cures or relieves the effects naturally resulting from the compensable injury.
6. The evidence does not show that the requested procedures are medically necessary.
7. Based on the foregoing Findings of Facts and Conclusions of Law, Provider's request for preauthorization of the requested procedures should be denied.

ORDER

IT IS ORDERED THAT the epidural steroid injections and facet injections requested by Provider not be preauthorized.

Signed this 16th day of June, 2003.

**STEVEN M. RIVAS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW JUDGE**