

**INSURANCE COMPANY OF THE
STATE OF PENNSYLVANIA,
Petitioner**

v.

**TEXAS WORKERS' COMPENSATION
COMMISSION and
MILTON S. KLEIN, M.D.**

Respondents
[TWCC File No. M4-02-3909-01]

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

The Insurance Company of the State of Pennsylvania (Carrier) appealed the Findings and Decision of the Texas Workers' Compensation Commission's (Commission or TWCC) Medical Review Division (MRD) issued November 7, 2002. Therein, the MRD ordered reimbursement of \$1329.00 for medical tests performed by Dr. Milton S. Klein (Provider) for the injured worker (Claimant). This Decision concludes that the Carrier failed to prove that reimbursement should not be made for these services and orders that the Carrier reimburse the Provider as ordered by the MRD.

The hearing was convened on February 20, 2003, at the SOAH hearings facility in the William Clements Building, Fourth Floor, 300 West 15th Street, Austin, Texas. Carrier appeared through its attorney, Steven M. Tipton. Dr. Klein participated by telephone through his two designated representatives, Patricia Guerrero and Debbie Shirley. The Commission did not participate in the hearing. The hearing adjourned and the record closed that same day.

I. NOTICE, JURISDICTION, AND VENUE

Because there were no contested issues regarding notice or jurisdiction, those matters are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

II. BACKGROUND

Claimant suffered a compensable injury on _____. He was referred to Dr. Klein by his treating physician, Dr. Gregory Stocks, because of an abnormal electrocardiogram (EKG). The non-emergency treatment and services at issue here were provided by Dr. Klein on October 8 and 22, 2001, and were billed to the Carrier using CPT codes: 93307 (echocardiogram - \$764), 93015 (cardiovascular stress test - \$575), and 78465 (myocardial perfusion imaging - \$1325) for a total of \$2664.00. The Carrier denied payment, and the Provider filed a request for medical dispute resolution on June 6, 2002. Based on the record before it, the MRD found the Carrier had failed to support its denial of payments with appropriate documentation, including "the correct payment

exception codes" required by Commission rule.¹ The MRD ordered reimbursement at the maximum allowable rate (MAR) for the three noted services.

III. EVIDENCE AND ARGUMENT

In support of its position, the Carrier offered the fourteen-page certified record considered by the MRD, three additional documentary exhibits, which were admitted without objection, the testimony of Dr. Klein's business office representative, Ms. Guerrero, and argument. Dr. Klein's representatives presented argument based on the record.

The evidence indicates that payment was refused because the insurance administrator² had no documentation showing preauthorization was obtained.³ The Provider argues that these tests do not require preauthorization and asserts that all other necessary authorization/referrals were obtained from the insurance adjustor before the Claimant arrived for his appointments. Ms. Guerrero testified further that she had a very difficult time getting anyone at the Gallagher Bassett office to answer her when she tried to find out why the charges for these services had not been paid and finally learned the basis for denial from an employee of Genex.

IV. ANALYSIS

The record in this case is very sparse and somewhat confusing, and the Carrier did not present testimony from any of the personnel/adjustors that might have been able to explain better why these payments were denied. The evidence shows the Carrier denied payment for these services because it did not have documents showing the tests had been preauthorized. However, the applicable

Commission rule does not list these tests among the services that require preauthorization,⁴ and there is no evidence showing them to be repeat tests that might otherwise require preauthorization. Further, the record contains no evidence that these tests were not a reasonable and necessary medical response to the Claimant's having shown an abnormal EKG. The Administrative Law Judge finds that the Carrier erred in denying payments, and payment is due as ordered by the MRD.

¹28 TEX. ADMIN. CODE § 133.304(c).

²Gallagher Bassett is a third party insurance administrator for ____, the Claimant's employer. Genex Services, Inc. handles medical bill reviews for Gallagher Bassett.

³Carrier's Alternate TWCC 62 form also shows these payments were denied using the explanation code "850-247 Disallowed - service(s) beyond certification for this episode/stay." The evidence provides no explanation of what this means. This numerical code is not among the recognized exception codes on the TWCC 62 form; there is no evidence the Carrier obtained "prior approval" to substitute its own EOB form; and the Code 850-247 description does not match-up in meaning to any of the recognized exception codes. *See* Carrier Ex. 1.

⁴28 TEX. ADMIN. CODE § 134.600(h).

V. FINDINGS OF FACT

1. The Claimant suffered a compensable job-related injury on ____.
2. Dr. Milton Klein, M.D. (Provider) billed the Carrier for the following medical services performed on October 8 and 22, 2001: \$764.00 for an echocardiogram, \$575.00 for a cardiovascular stress test, and \$1325 for myocardial perfusion imaging.
3. Insurance Company of the State of Pennsylvania (Carrier) denied the Provider's request for reimbursement on the basis that the non-emergency treatment and related services had not been preauthorized.
4. The Provider filed a request for medical dispute resolution dated June 2, 2002, which was received by Texas Workers' Compensation Commission's (TWCC) Medical Review Division (MRD) on June 6, 2002.
5. On November 7, 2002, the MRD issued a Findings and Decision that required the Carrier to reimburse the Provider \$1329.00 for the three tests noted in Finding of Fact No. 2.
6. TWCC received the Carrier's request for hearing and appeal of the MRD decision on December 2, 2002.
7. Notice of the hearing was sent to the parties on December 30, 2002.
8. 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.
9. The hearing on the merits of this dispute was held on February 20, 2003.

VI. CONCLUSIONS OF LAW

1. TWCC has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. § 413.031 (Vernon Supp. 2002).
2. The State Office of Administrative Hearings has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. §413.031 and TEX. GOV'T CODE ANN. ch. 2003.

3. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 1 TEX. ADMIN. CODE (TAC) ch. 155.
4. Timely appeal of the MRD's order was filed by the Carrier. TEX. ADMIN. CODE §§ 133.305(p) and 148.3.
5. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.52.
6. The services at issue do not require preauthorization, and the Carrier erred in denying payments on that basis. 28 TAC § 134.600(h)(5).
7. Based on the above Findings of Fact and Conclusions of Law, the Provider is entitled to reimbursement of \$1329.00 for the treatment and services performed on October 8 and 22, 2001.

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ORDER

It is hereby **ORDERED** that the Carrier shall reimburse the Provider for the three services at issue in this hearing in the amount of **\$1329.00**, plus interest at the rate and for the time as provided by law.

ISSUED the 18th day of March 2003.

**LESLIE CRAVEN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**