

DOCKET NO. 453-03-1754.M2
[MDR TRACKING NO. M2-02-1092-01]

JOHN A. SAZY, M.D.,
Petitioner

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BEFORE THE STATE OFFICE

VS.

OF

TRAVELERS INDEMNITY
COMPANY OF CONNECTICUT,
Respondent

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

This is a dispute over preauthorization for facet injections. The Administrative Law Judge (ALJ) concludes the injections should be preauthorized.

I. Discussion

The Claimant suffered a compensable back injury on _____. She underwent a spinal fusion, with placement of BAK cages, in July of 1999 at the L4/L5 level. She continued to suffer from back pain and numbness, however. The Petitioner, Dr. John A. Sazy, performed additional surgery on her on March 12, 2001. That surgery included a spinal fusion at the L5/S1 level.

The Claimant continues to complain of back pain and some tingling in her lower extremities. Therefore, Dr. Sazy requested preauthorization for facet injections. The Carrier, Travelers Indemnity Company of Connecticut, denied preauthorization. Dr. Sazy filed a request for medical dispute resolution. The Independent Review Organization (IRO) to which the dispute was assigned denied the request. Dr. Sazy requested a hearing before the State Office of Administrative Hearings (SOAH).

The hearing was convened February 11, 2003, with the undersigned ALJ presiding. Both parties participated in the hearing, which was adjourned the same day.

Dr. Sazy testified the facet injections would potentially serve two purposes: relieving the Claimant's pain and determining whether the L3/L4 level is the source of that pain. He stated the Claimant's response to the injections should help him determine if she is a candidate for additional surgery at L3/L4, whether she may need a discogram at that level, or whether she is likely never to improve. He testified they may also help him determine whether she is malingering.

The Carrier pointed out that several different doctors had determined on review that the injections were not medically necessary. Those reviews, however, focused on the potential therapeutic benefits of the injections and did not address their diagnostic purpose. The ALJ finds Dr. Sazy's testimony established their diagnostic value. Dr. Sazy proved the injections are medically necessary and should be preauthorized.

II. Findings of Fact

1. The Claimant suffered a compensable back injury on_____.
2. The Claimant underwent a spinal fusion, with placement of BAK cages, in July of 1999 at the L4/L5 level.
3. The Claimant continued to suffer from back pain and numbness after the July 1999 surgery.
4. Dr. Sazy performed additional surgery on the Claimant on March 12, 2001. That surgery included a spinal fusion at the L5/S1 level.
5. The Claimant continues to complain of back pain and some tingling in her lower extremities.
6. Dr. Sazy requested preauthorization for facet injections.
7. The Carrier denied preauthorization for the facet injections.
8. Dr. Sazy filed a request for medical dispute resolution.
9. The IRO to which the dispute was assigned denied the request.
10. Dr. Sazy requested a hearing before SOAH.
11. Notice of the SOAH hearing was sent to the parties January 21, 2003.
12. 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.
13. The hearing was convened February 11, 2003, with ALJ Henry D. Card presiding. Both parties participated in the hearing, which was adjourned the same day.
14. The Claimant's response to the injections should help Dr. Sazy determine if she is a candidate for additional surgery at L3/L4, whether she may need a discogram at that level, or whether she is likely never to improve.
15. The Claimant's response to the injections may help Dr. Sazy determine whether she is malingering.
16. The doctors who reviewed the preauthorization request did not address the diagnostic purpose of the injections.

17. The facet injections would have diagnostic value.

III. Conclusions of Law

1. 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.
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §2001.052.
3. Dr. Sazy has the burden of proof in this matter. 28 TEX. ADMIN. CODE §148.21(h).
4. Dr. Sazy proved the facet injections were medically necessary for the Claimant.
5. The facet injections should be preauthorized.

ORDER

IT IS, THEREFORE, ORDERED that the Petitioner, John A. Sazy, M.D., is entitled to preauthorization for facet injections for the Claimant.

Signed this 11th day of March, 2003.

STATE OFFICE OF ADMINISTRATIVE HEARINGS

Henry D. Card
Administrative Law Judge