

DOCKET NO. 453-03-2262.M5
[MDR TRACKING NO. M5-02-2529-01]

TEXAS MUTUAL INSURANCE COMPANY,	§	BEFORE THE STATE OFFICE
<i>Petitioner</i>	§	
	§	
V.	§	OF
	§	
HARRIS COUNTY MRI,	§	
<i>Respondent</i>	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Texas Mutual Insurance Company (Petitioner or Carrier) appeals the decision of the independent review organization (IRO) designated by the Texas Workers' Compensation Commission (TWCC or Commission) that ordered Carrier to reimburse Harris County MRI (Provider or Respondent) \$756.00 for an MRI. The Administrative Law Judge (ALJ) finds that the evidence supports the IRO's decision.

I. Jurisdiction, Notice, and Procedural History

The Commission has jurisdiction over this matter pursuant to Section 413.031 of the Texas Workers' Compensation Act (the Act), TEX. LAB. CODE ANN. ch. 401 *et seq.* The State Office of Administrative Hearings (SOAH) 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.

The IRO issued its decision on October 23, 2002. Carrier timely requested a hearing. Proper notice of the hearing was issued March 10, 2003. The hearing was convened June 25, 2003, with ALJ John H. Beeler presiding. Carrier was represented by attorney Patricia Eads and Provider was represented by attorney H. Douglas Pruett. The hearing was adjourned and the record closed the same day.

II. Legal Standards

Section 408.021 of the Texas Labor Code states:

- (a) 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. The employee is specifically entitled to health care that:
 - (1) cures or relieves the effects naturally resulting from the compensable injury;
 - (2) promotes recovery; or

- (3) enhances the ability of the employee to return to or retain employment.

Section 401.11(19) defines "health care" to include "all reasonable and necessary medical aid, medical examinations, medical treatments, medical diagnoses, medical evaluations, and medical services."

III. Discussion

Background. The workers' compensation claimant in this case suffered a work-related injury on _____, when she was involved in an automobile accident resulting in neck and low back pain. Her treating doctor and another doctor who examined her recommended an MRI which was performed on August 24, 2001. Carrier denied reimbursement based on the Spine Treatment Guidelines in effect at the time. Pursuant to 28 TEX. ADMIN. CODE §134.1001 an MRI was not medically necessary before six weeks from the time of the injury unless properly documented.

On October 23, 2002, an independent review organization (IRO) issued a decision finding that the disputed services were medically necessary. The IRO stated:

The patient was having significant neck pain and the plain x-rays of the cervical spine suggested a narrow disk along with other possible pathology, which could more properly be evaluated by MRI. Also, the left upper extremity pain with numbness and paresthesia was suggestive of nerve root compression.

The IRO review was performed by a physician who is Board Certified in Neurological Surgery.

Carrier's position. Carrier presented testimony from Clark Watts, M.D. and argued, based on his testimony, that there was no medical necessity for the MRI. Dr. Watts is board certified in Neurosurgery and is also an attorney. He testified that he reviewed the medical records and saw no reason for the MRI. He also testified that he was being compensated for his review and testimony at the rate of \$300.00 per hour.

Provider's position. Provider relied on the documents entered and the rationale set out in the IRO decision. The information in the documents is basically a more detailed account of the above quote from the IRO.

Analysis. The IRO review was conducted by a board certified neurosurgeon with similar qualifications as Dr. Watts. The most significant difference between the two is that the IRO reviewer has no personal interest in the decision in the case, while Dr. Watts is Carrier's witness and is generally assumed to favor Carrier's position. Further, Claimant's treating doctor and another doctor who examined Claimant documented the need for the MRI. Carrier's basis for denial is that the spine treatment guidelines in effect at the time of the treatment stated that there was not a medical necessity for an MRI until six weeks after the injury, unless documented by the provider. Because proper documentation was provided, Carrier's denial was improper.

IV. Findings of Fact

1. The claimant suffered a compensable back injury.
2. Texas Mutual Insurance Company (TMIC) is the workers' compensation insurer with respect to the claims at issue in this case.
3. Claimant's treating doctor prescribed an MRI one week after Claimant's injury.
4. Carrier denied reimbursement for the MRI, asserting that it was not medically necessary.
5. The amount in dispute is \$756.00.
6. Provider requested medical dispute resolution.
7. On October 23, 2002, an independent review organization (IRO) issued a decision finding that the disputed MRI was medically necessary.
8. Carrier timely requested a hearing.
9. Notice of the hearing was issued March 10, 2003.
10. 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.
11. The hearing was convened June 25, 2003, with ALJ John H. Beeler presiding. Carrier was represented by attorney Patricia Eads and Provider was represented by attorney H. Douglas Pruett. The hearing was adjourned and the record closed the same day.
12. Claimant was experiencing significant neck pain and the plain x-rays of the cervical spine suggested a narrow disk along with other possible pathology, which could properly be evaluated by MRI.
13. The disputed MRI was medically necessary.

V. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to Section 413.031 of the Texas Workers' Compensation Act (the Act), TEX. LAB. CODE ch. 401 *et seq.*
2. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order. TEX. LAB. CODE § 413.031; TEX. GOV'T CODE ch. 2003.
3. 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. TEX. LAB. CODE § 408.021.
4. Adequate and timely notice of the hearing was provided in accordance with the Administrative Procedure Act. TEX. GOV'T CODE § 2001.052.
5. Based on the above Findings of Fact, Provider is entitled to reimbursement from Carrier for the disputed MRI.

ORDER

IT IS THEREFORE ORDERED that Texas Mutual Insurance Company reimburse Provider for Claimant's disputed MRI.

Signed this 20th day of August, 2003.

STATE OFFICE OF ADMINISTRATIVE HEARINGS

JOHN H. BEELER
Administrative Law Judge