

**DOCKET NO. 453-03-2705.M5
MDR Tracking No. M5-03-0716-01**

**CENTRAL DALLAS REHAB § BEFORE THE STATE OFFICE
V. § OF
TEXAS MUTUAL INSURANCE § ADMINISTRATIVE HEARINGS
COMPANY §**

DECISION AND ORDER

Central Dallas Rehab (Petitioner) seeks reimbursement in the amount of \$480.00 from Texas Mutual Insurance Company (Carrier) for ten office visits provided to injured worker _____. (Claimant). The Medical Review Division (MRD) of the Texas Workers' Compensation Commission (Commission) adopted the decision of the Independent Review Organization (IRO) and denied reimbursement. Petitioner has appealed MRD's decision. After considering the evidence and arguments of the parties, the Administrative Law Judge (ALJ) concludes that Petitioner has not shown by preponderance of the evidence that the ten office visits were medically necessary treatment for Petitioner's work-related, compensable injury. Therefore, the ALJ denies the request for reimbursement.

I. Background Facts

Claimant suffered a compensable, work-related injury on, resulting in pain to his stomach and back. On December 4, 2001, Claimant began receiving treatment, including physical therapy, from Dr. Dean Allen (who is associated with Petitioner) for his work-related injury. Claimant was then referred to Dr. Raul Rodriguez, a general surgeon, for diagnosis and surgical assessment. Dr. Rodriguez concluded that Claimant had a hernia and right groin strain, and recommended surgery. Carrier preauthorized the surgery on January 2, 2002. On January 4, 2002, Claimant underwent a CT scan that revealed kidney stones and an obstruction in Claimant's ureter. Petitioner did not first note the kidney stones until January 29, 2002, at which time it advised Claimant to follow up with his doctor or primary care physician for the kidney stones seen on the CT scan. Claimant then saw Petitioner 17 more times between April 4, 2002 and July 30, 2002, and Petitioner billed Carrier for the services. Carrier denied reimbursement for some of the services, and ten dates of service involving CPT code 99213 (mid-level office visits) remain in dispute now.

After Carrier denied reimbursement for the ten dates of service in issue, Petitioner requested medical dispute resolution by the Commission's MRD, which referred the matter to an IRO. The IRO physician reviewer determined that the services were not medically necessary and agreed with Carrier that reimbursement was not appropriate. Based on the IRO determination, MRD issued an order declining to order reimbursement. Petitioner then appealed.

On May 13, 2003, ALJ Ruth Cazarez convened a hearing in this case. Petitioner appeared and was represented by its attorney, Scott Hilliard. Carrier appeared and was represented by its attorney, Katie Kidd. The hearing was recessed, and reconvened on July 18, 2003, at which time only the Carrier appeared. The hearing concluded that day and the record closed on July 28, 2003, after the parties were given the opportunity to file written closing arguments. After the record was

closed, this case was reassigned to ALJ Craig R. Bennett for preparation of a decision. The undersigned ALJ has reviewed the entire record, including the transcript, and has listened to the tapes of the hearing in preparation of this decision.

II. Analysis

The sole issue in this case is whether the ten dates of service, involving treatment billed under CPT Code 99213, provided to Claimant between April 4, 2002, and July 30, 2002, were medically necessary to treat his work-related injury. Petitioner presented the testimony of Ted Krecji, D.C., who is the doctor who provided the treatment in issue. Dr. Krecji is associated with Petitioner. Dr. Krecji testified that he referred Claimant to a specialist for his abdominal problems, but continued to treat Claimant for lumbar disc disorder. He also testified that the office visits in issue were necessary for case management of Claimant's condition, which Dr. Krecji continued to handle even though Claimant had been referred to a specialist. Dr. Krecji further testified that Claimant's case was complicated by his other medical problems at the time (including the hernia and suspected kidney stones) and by conflicting opinions he was getting regarding the extent/location of his hernia. Dr. Krecji needed to provide more extensive case management to assist Claimant's restoration and ability to return to work because of those factors.

Carrier disputes that active case management services were needed or even provided. Carrier points out that Claimant had been receiving treatment continuously since December 2001 and had been referred to a specialist for treatment of his hernia and that surgery had been recommended. Despite this, the evidence is inconclusive as to whether surgery was performed, and Dr. Krecji could not provide any information as to why surgery was not initiated during the time period he was treating Claimant. Moreover, Claimant had been instructed in January 2002 to see his primary care physician (PCP) for suspected kidney stones, but Dr. Krecji did not know for sure if this was done either. He testified that Claimant had indicated that he had seen his PCP, but Dr. Krecji did not know if that was accurate or what the outcome of that visit was. Carrier also points out that Claimant's treatment plan changed very little during the time period from April 2002 through July 2002 and that his condition did not improve at all either.

After considering the arguments and evidence presented, the ALJ concludes that Petitioner has failed to establish by a preponderance of the evidence that the treatment in issue was medically necessary. Specifically, the ALJ finds that the evidence raises the concern that much of Claimant's pain was due to his other conditions at the time, particularly his hernia and suspected kidney stones. Petitioner did not attempt to treat these conditions, nor could it, considering the nature of the medical conditions. In light of this, it was incumbent to establish that the symptoms that Claimant was experiencing were due to his work-related injury. Petitioner did not establish this.

Further, while Petitioner was entitled to provide case management services to Claimant, the evidence negates that such services were properly provided during the office visits in question. Petitioner undertook no efforts to assist Claimant's coordination of care, never followed up on any of the other conditions, never attempted to contact the other physicians to determine Claimant's proposed plan of treatment, and never even verified whether any of Claimant's other conditions were ever treated. The ALJ is not persuaded that Petitioner provided case management care, other than just meeting with Claimant regularly to provide some lumbar disc treatments that likely should not have even been provided; instead, Claimant's other known conditions should have been treated first to ensure that any remaining symptoms were attributable to Claimant's work-related injury.

In conclusion, the ALJ finds that Petitioner has not presented sufficient evidence to establish that the treatment provided to Claimant was medically necessary treatment for Claimant's work-related injury nor that Petitioner provided case management services that might have provided some benefit to Claimant. Under the circumstances, therefore, the ALJ finds that Petitioner is not entitled to reimbursement for the treatments in issue. In support of this, the ALJ makes the following findings of fact and conclusions of law.

III. Findings of Fact

1. Claimant suffered a compensable, work-related injury on, resulting in pain to his stomach and back.
2. Texas Mutual Insurance Company (Carrier) is the provider of workers' compensation insurance covering Petitioner for his compensable injury.
3. On December 4, 2001, Claimant began receiving treatment, including physical therapy, from Dr. Dean Allen (who is associated with Petitioner) for his work-related injury.
4. Claimant was referred to Dr. Rodriguez, a general surgeon, for surgical assessment.
5. Dr. Rodriguez concluded that Claimant had a hernia and a right groin strain, and recommended surgery.
6. Carrier preauthorized the hernia surgery on January 2, 2002.
7. On January 4, 2002, Claimant underwent a CT scan that revealed kidney stones and an obstruction in Claimant's ureter. Petitioner did not first note the kidney stones until January 29, 2002, at which time it advised Claimant to follow up with his doctor or primary care physician for the kidney stones seen on the CT scan.
8. Claimant saw Petitioner 17 more times between April 4, 2002 and July 30, 2002, and Petitioner billed Carrier for the services.
9. Carrier denied reimbursement for some of the services, and ten dates of service involving CPT code 99213 remain in dispute in this proceeding.
10. The record does not establish that Petitioner provided case management services to Claimant.
11. The record does not establish that the symptoms of which Claimant complained, and which Petitioner treated, were the result of Claimant's compensable, work-related injury.
12. On October 17, 2002, Petitioner requested medical dispute resolution by the Texas Workers' Compensation Commission's Medical Review Division (MRD), which referred the matter to an Independent Review Organization (IRO).

13. After conducting medical dispute resolution, the IRO physician reviewer determined that the services were not medically necessary and agreed with Carrier that reimbursement was not appropriate.
14. Based on the IRO decision, MRD issued an order on January 8, 2003, declining to order reimbursement.
15. On January 15, 2003, Petitioner requested a hearing and the case was referred to the State Office of Administrative Hearings (SOAH).
16. On May 13, 2003, Administrative Law Judge Ruth Cazarez convened a hearing in this case. Petitioner appeared and was represented by its attorney, Scott Hilliard. Carrier appeared and was represented by its attorney, Katie Kidd. The hearing was recessed, and reconvened on July 18, 2003, at which time only the Carrier appeared. The hearing concluded that day and the record closed on July 28, 2003, after the parties were given the opportunity to file written closing arguments.
17. The ten office visits in issue have not been shown to be medically necessary for treatment of Petitioner's work-related, compensable injury.

IV. Conclusions of Law

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to the Texas Workers' Compensation Act (the Act), specifically TEX. LABOR CODE ANN. §413.031(k), and TEX. GOV'T CODE ANN. ch. 2003.
2. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 28 TEX. ADMIN. CODE ch. 148.
3. The request for a hearing was timely made pursuant to 28 TEX. ADMIN. CODE § 148.3.
4. Adequate and timely notice of the hearing was provided according to TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
5. Petitioner has the burden of proof in this matter. 28 TEX. ADMIN. CODE §148.21(h).
6. Petitioner failed to establish, by a preponderance of the evidence, that the treatments provided on the ten dates of service in issue were medically necessary for the treatment of Petitioner's work-related injury.
7. Petitioner's request for reimbursement should be denied.

ORDER

IT IS ORDERED that Texas Mutual Insurance Company is not required to reimburse Petitioner any amount for the ten office visits provided to Claimant between April 4, 2002, and July 30, 2002.

Signed this 19th day of September 2003.

**CRAIG R. BENNETT
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**