

_____, <i>Petitioner</i>	§	BEFORE THE STATE OFFICE
	§	
	§	
	§	OF
NOVA ADVANCED CARE CENTER, <i>Respondent</i>	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

The issue in this case is whether ____ (Carrier) should provide additional reimbursement for a chronic pain management program (CPMP).

The hearing convened before Janet R. Dewey, Administrative Law Judge (ALJ), at the State Office of Administrative Hearings (SOAH) on May 19, 2003, 300 West 15th Street, Fourth Floor, Austin, Texas. Mr. W. Jon Grove appeared on behalf of the Carrier. Mr. Tony Smith, the Director of Nova Advanced Care Center (Provider), appeared via telephone.

Based upon the record, the ALJ finds that the Carrier failed to meet its burden of proof and that the Carrier should pay the Provider \$4,900 as ordered by the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (Commission).

I. Factual Background

On ____, the Claimant suffered a compensable injury at his work with _____. On June 14, 2001, the Carrier preauthorized ten sessions or two weeks of a pain management program. The Carrier evidently partially reimbursed the Provider for several dates of service but denied the following seven dates of service: June 25, 26, 27, and 29, and July 2, 3 and 5, 2001.

The Carrier argues that the CPMP provided treatment to areas that were not part of the compensable injury and relies upon a "benefit dispute agreement" in which the parties agree that Claimant's injury is "limited to the left shoulder, left arm, left wrist and hand." Carrier Ex. 3. The preauthorization form issued by the Carrier lists three diagnosis codes including cervical disc syndrome, bursitis of hand and wrist, and brachial neuritis or radiculitis. Carrier Ex. 4.

The Provider maintains that the CPMP treated the compensable injury and that the cervical region is related to the compensable region.

On February 7, 2003, the Medical Review Division (MRD) of the Texas Workers' Compensation Division found that a CPMP treats the "whole person." It incorporates whole body exercise, group and individual therapy and it is impossible to separate out "the neck" from the whole body approach. The MRD ordered the Carrier to pay \$4,900.

The ALJ finds that the Carrier failed to meet its burden of proof to demonstrate that the CPMP provided care to body regions that were not compensable. While the preauthorization lists cervical disc syndrome as a diagnosis, it also lists bursitis of hand and wrist, and brachial neuritis or radiculitis.

The record contains no evidence that treatment was provided for a condition unrelated to the compensable injury. Neither the Carrier nor the Provider entered any treatment documentation or offered any live testimony relating to the actual treatment provided to the Claimant. Furthermore, any factual findings by the MRD are not evidence in the *de novo* proceeding before SOAH. The diagnosis codes on the preauthorization form, standing alone, fail to establish that the Provider treated the neck.

II. Findings of Fact

1. The Claimant sustained a compensable injury on ____.
2. The Carrier denied payment for seven sessions of a CPMP that occurred on June 25, 26, 27, and 29, and July 2, 3 and 5, 2001. The Carrier denied all the claims under the “R” code, challenging the extent of the injury, or its compensability.
3. The Provider requested dispute resolution from the Medical Review Division of the Texas Workers’ Compensation Division (MRD).
4. On December 31, 2002, the MRD found that the Provider’s services treated the compensable injury and that \$4,900 represented fair and reasonable compensation at an amount of \$700 per date of service.
5. The Carrier appealed the MRD decision.
6. Notice of hearing was sent 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.
7. The hearing was convened on May 19, 2003 with ALJ Janet Dewey presiding and representatives for the Carrier and the Provider participating.
8. A “benefit dispute agreement” dated June 16, 2000, states that the “parties agree the compensable injury is limited to the left shoulder, left wrist and hand.” This agreement does not mention the neck or cervical spine.
9. On June 14, 2001, the Carrier preauthorized ten sessions or two weeks of a CPMP. The preauthorization form issued by the Carrier lists three diagnosis codes including cervical disc syndrome, bursitis of hand and wrist, and brachial neuritis or radiculitis.
10. The record does not contain any evidence the Provider treated a non-compensable injury.
11. Fair and reasonable compensation for the seven dates of chronic pain management is \$4,900.

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(k) (Vernon Supp. 2003) and TEX. GOV'T CODE ANN. Ch. 2003 (Vernon 2000 & Supp. 2003).
2. The Carrier timely filed its request for a hearing as specified in 28 TEX. ADMIN. CODE (TAC) §148.3.
3. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §2001.052 (Vernon 2002).
4. The Carrier has the burden of proof in this matter. 28 TAC §148.21(h).
5. The Carrier failed to demonstrate that the services rendered treated a non-compensable injury.
6. The Carrier should pay the Provider \$4,900 for the treatment provided in the seven sessions of chronic pain management rendered on June 25, 26, 27, and 29, 2001 and July 2, 3 and 5, 2001.

ORDER

IT IS, THEREFORE, ORDERED that Harris County shall pay Nova Advanced Care Systems \$4,900 in additional reimbursement for chronic pain management services.

Signed June 23, 2003

STATE OFFICE OF ADMINISTRATIVE HEARINGS

JANET R. DEWEY
ADMINISTRATIVE LAW JUDGE