

DOCKET NO. 453-03-2853.M5
MDR TRACKING NO. M5-03-0883-01

TEXAS MUTUAL INSURANCE	§	BEFORE THE STATE OFFICE
COMPANY,	§	
Petitioner	§	
	§	
VS.	§	OF
	§	
RADIOLOGY ASSOCIATES, L.L.P.,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

This case is a dispute over whether reimbursement is appropriate for treatment rendered to ___ (Claimant) at the facilities of Radiology Associates, L.L.P. (Provider), on November 30, 2001. Provider sought reimbursement from Texas Mutual Insurance Company (Carrier) in the amount of \$985.00 for treatment rendered to ___, which Carrier denied. The Texas Workers' Compensation Commission (the Commission) Medical Review Division (MRD) adopted the findings of the Independent Review Organization (IRO) that held Provider was entitled to full reimbursement. In this Order, the Administrative Law Judge (ALJ) concludes Provider is not entitled to any reimbursement.

I.
JURISDICTION, NOTICE AND PROCEDURAL HISTORY

There were no contested issues of jurisdiction or notice. Therefore, those matters will be addressed in the findings of facts and conclusions of law without further discussion here. Provider appealed the findings and decision of the IRO, which was set out in MRD docket number M5-03-0883-01, issued on February 27, 2003.

A hearing convened and closed on June 26, 2003, at the State Office of Administrative Hearings (SOAH) with Steven M. Rivas, ALJ, presiding. Carrier appeared and was represented by Patricia Eads, attorney. Provider was represented by Sherry Cummings, Patient Account Supervisor.

II.
DISCUSSION

A. Background Facts

Claimant was a truck driver and sustained a compensable injury on, when the truck she was operating was rear-ended by another vehicle. On November 5, 2001, her treating doctor, John T. Randolph, D.C., recommended that she undergo an MRI examination. Claimant was referred to Provider where she underwent an MRI examination on November 30, 2001. Provider billed Carrier for the MRI, which was denied as not medically necessary.

B. Applicable Law

The Texas Labor Code contains the Texas Workers' Compensation Act (the Act) and provides the relevant statutory requirements regarding compensable treatment for workers' compensation claims. In particular, the Act, as noted in § 408.021, provides 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. Under the same statute, the employee is entitled to health care that cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment.

C. IRO Decision

This dispute was referred to an IRO, which found the treatment rendered to Claimant was medically necessary. As its rationale, the reviewer stated, "that orthopedic tests conducted on 11/5/01 indicated possible nerve root involvement of the cervical spine."

D. Evidence and Arguments

1. Carrier

Carrier argued the treatment rendered to Claimant on November 30, 2001, was not performed in compliance with the Commission's Spine Treatment Guideline (STG) formerly located at 28 TEX. ADMIN. CODE (TAC) § 134.1001. Carrier admitted the STG has since been abolished, but asserted it was in place at the time of Claimant's injury and treatment, which both occurred in November of 2001.¹

Carrier asserted under the STG § 134.1001(f)(3)(B), an MRI exam is recommended to be performed six weeks to four months after the injury. Since the date of injury was, and the MRI was performed on November 30, 2001, Carrier argued it was performed less than six weeks after the injury, and therefore did not comply with the provisions of the STG.

The STG indicates an exception to the above recommended time frame is allowed in cases where a claimant exhibits a significant neurological deficit.² No evidence of a significant neurological deficit was present when Claimant was examined by Dr. Randolph, or when she underwent the MRI exam on November 30, 2001, Carrier argued.

In support of its position, Carrier called Clark Watts, M.D., who testified a significant neurological deficit is present when there is a disturbance of the sensory nervous system. According to Dr. Watts, a disturbance of the sensory nervous system is usually evident when a patient suffers from numbness or bladder complications. Dr. Watts said he reviewed the notes from Claimant's visit from November 5, 2001, and found no evidence of a significant neurological deficit based on the

¹ The effective date for the relevant provisions of the STG was February 1, 2000. It remained in effect until early 2003.

² See 28 TAC § 134.1001(i)(5)(C), chart 5C.

results of the range of motion test, neurological exam, or orthopedic exam. Furthermore, Dr. Watts contended that Claimant's complaints of pain are an indication that her nervous system was intact and did not have any deficit.

2. Provider

Provider did not address the provisions of the STG, but merely argued it was entitled to reimbursement because it rendered treatment to Claimant and the MRI examination performed on November 30, 2001, was prescribed by Claimant's treating doctor, Dr. Randolph. Provider additionally pointed out that it properly administered the MRI to Claimant and billed Carrier for the MRI. Furthermore, Provider argued that it diligently followed through with the Commission's appeal process in order to ensure reimbursement.

Provider further asserted the IRO decision was correct in finding the treatment rendered to Claimant was medically necessary.

E. Analysis and Conclusion

At the time Provider performed the MRI on Claimant, the Commission's STG was in effect and was the primary guideline when determining medical necessity. Pursuant to the STG § 134.1001(f)(3)(B), an MRI exam should be performed within six weeks to four months after the injury. In this case, the MRI was performed four weeks following the injury.

Under the provisions of the STG, an MRI may be deemed medically necessary less than six weeks after an injury if there is evidence that a significant neurological deficit is present. Carrier's witness, Dr. Watts, testified he found no such evidence upon review of the medical records.

Provider did not present any contradictory evidence of the STG provisions. Moreover, Provider did not present any evidence that Claimant suffered from a significant neurological deficit that made an MRI medically necessary.

Furthermore, the IRO decision was incorrect because it made no mention of the applicable STG.

This is an unfortunate situation for Provider because it is caught in the middle of a treating doctor's recommendation and the Commission's rules regarding medical necessity. Further predicaments like this may have been remedied by having the Commission's STG abolished. However, neither party can escape any provision that was in place at the time the MRI was performed.

For the foregoing reasons, the MRI that was administered to Claimant on November 30, 2001, was not medically necessary, and Carrier should not be ordered to reimburse Provider for the MRI.

III. FINDINGS OF FACT

1. Claimant suffered a back injury on, when the truck she was driving was rear-ended by another vehicle.
2. On November 5, 2001, Claimant was examined by John T. Randolph, D.C., who recommended Claimant undergo an MRI examination.
3. Dr. Randolph referred Claimant to Radiology Associates, L.L.P. (Provider), for the MRI examination.
4. Provider administered the MRI to Claimant on November 30, 2001.
5. Provider billed Texas Mutual Insurance Company (Carrier) \$985.00 for the MRI it performed on Claimant, which Carrier denied as not medically necessary.
6. Provider filed a Request for Medical Review Dispute Resolution with the Texas Workers' Compensation Commission (the Commission), seeking reimbursement for the treatment rendered to Claimant.
7. The dispute was referred to an Independent Review Organization (IRO), which found Provider was entitled to full reimbursement for the MRI examination it administered to Claimant on November 30, 2001.
8. The Commission's Medical Review Division (MRD) in docket number M5-03-0883-01 adopted the IRO decision in its findings and decision issued on February 27, 2003.
9. Carrier timely appealed the IRO decision and filed a request for hearing before the State Office of Administrative Hearings (SOAH) seeking denial of reimbursement to Provider.
10. Notice of the hearing was sent May 13, 2003.
11. 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.
12. The hearing convened and closed on June 26, 2003, with Steven M. Rivas, Administrative Law Judge (ALJ) presiding. Carrier appeared and was represented by Patricia Eads, attorney. Provider was represented by Sherry Cummings, patient account supervisor.
13. Provider administered the MRI four weeks following the injury.
14. Claimant did not suffer from a significant neurological deficit at the time she underwent the MRI on November 30, 2001.

IV.
CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Section 413.031 of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. ch. 401 *et seq.*
2. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. § 413.031(k) and TEX. GOV'T CODE ANN. ch. 2003.
3. Provider timely filed its request for hearing as specified by 28 TEX. ADMIN. CODE § 148.3.
4. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. § 2001.052 and 28 TEX. ADMIN. CODE §148.4.
5. The Carrier, as Petitioner, has the burden of proof in this matter under 28 TEX. ADMIN. CODE §148.21(h).
6. Under TEX. LAB. CODE ANN. § 408.021(a), an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury 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.
7. The Commission's Spine Treatment Guideline (STG) formerly found at 28 TEX. ADMIN. CODE (TAC) § 134.1001 recommended an MRI examination should be performed within six weeks to four months following an injury. The STG additionally recommended an MRI may be performed before six weeks if there is evidence of a significant neurological deficit.
8. Carrier showed, by a preponderance of the evidence, that the MRI examination administered to Claimant on November 30, 2001, was not medically necessary, because it was performed less than six weeks following Claimant's injury, and there was no evidence of a significant neurological deficit.
9. Pursuant to the foregoing Findings of Fact and Conclusions of Law, Provider is not entitled to any reimbursement for the MRI it rendered to Claimant

ORDER

IT IS, THEREFORE, ORDERED that Provider, Radiology Associates, L.L.P., is not entitled to receive any reimbursement from the Carrier, Texas Mutual Insurance Company, for the MRI it rendered to Claimant on November 30, 2001.

Signed this 21st day of July 2003.

STEVEN M. RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS