

**SOAH DOCKET NO. 453-03-3115.M5
TWCC DOCKET NO. M5-02-3261-01**

ARCH AMERICAN INSURANCE COMPANY, Petitioner	§ § § § § § §	BEFORE THE STATE OFFICE
v.		
CENTRAL DALLAS REHAB, Respondent		OF
		ADMINISTRATIVE HEARINGS

DECISION AND ORDER

This case is an appeal by Arch American Insurance Company (Petitioner) from the decision of the independent review organization (IRO) designated by the Texas Workers' Compensation Commission (TWCC or Commission) in a medical fee dispute. Based on the IRO finding, TWCC ordered reimbursement for therapeutic exercises during pre-surgical care for a ganglion cyst. The issue in this case is whether the therapeutic exercises were medically necessary. After considering the evidence and arguments, the Administrative Law Judge (ALJ) concludes that the exercises were not medically necessary and, therefore, Petitioner is not required to reimburse Central Dallas Rehab (Respondent).

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Notice and jurisdiction were not contested and are discussed only in the findings of fact and conclusions of law. The hearing in this docket convened on September 23, 2003, at the State Office of Administrative Hearings, 300 West 15th Street, Austin, Texas. Petitioner was represented by attorney Steve Tipton. Respondent was represented by attorney Scott Hilliard. The hearing concluded and the record closed the same day.

II. DISCUSSION

Claimant, _____, sustained a compensable workers' compensation injury on _____, that either caused or exacerbated a ganglion cyst on her right wrist. Respondent provided therapeutic exercises for Claimant on a daily basis for a month prior to surgery to remove the cyst. Neither party offered live testimony, but both provided documentary evidence concerning the issue of medical necessity of the exercises. After reviewing the documents, the ALJ is of the opinion that the exercises were not the type of medical care reasonably calculated to treat Claimant's condition and, therefore, were not medically necessary. Because the care provided was not medically necessary, no reimbursement is ordered.

III. FINDINGS OF FACT

1. On _____, Claimant suffered a work-related injury that either caused or exacerbated a ganglion cyst on her right wrist.
2. Respondent provided Claimant with therapeutic exercises prior to surgery to remove the cyst
3. Therapeutic exercises are not reasonably calculated to treat a ganglion cyst.
4. Petitioner denied reimbursement to Respondent for the therapeutic exercises.
5. The Independent Review Organization (IRO) granted Respondent's request for reimbursement.
6. Petitioner timely requested a hearing with the State Office of Administrative Hearings seeking review and reversal of the IRO decision.
7. The Commission mailed notice of the hearing's setting to the parties at their addresses on May 16, 2003. The notice of hearing listed the time, place, and nature of the hearing; included a statement of the legal authority and jurisdiction under which the hearing was to be held; referred to particular sections of the statutes and rules involved; and included a short, plain statement of the matters asserted.
8. A hearing in this matter was convened on September 23, 2003, at 300 West 15th Street, Austin, Texas. Petitioner and Respondent participated in the hearing.

IV. CONCLUSIONS OF LAW

1. The Texas Workers' Compensation Commission has jurisdiction over this matter pursuant to the Texas Workers' Compensation Act (the Act), TEX. LAB. CODE ANN. § 413.031.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, TEX. GOV'T CODE ANN. ch. 2003.
3. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and the Commission's rules, 28 TEX. ADMIN. CODE § 133.305(g) and §§148.001-148.028.
4. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
5. Based on the above Findings of Fact, the therapeutic exercises were not medically necessary.
6. Based upon the Findings of Fact and Conclusions of Law, Petitioner's appeal of the decision ordering reimbursement should be granted, and Petitioner should not be required to reimburse Respondent for the therapeutic exercises provided to Claimant prior to the surgery to remove the ganglion cyst.

ORDER

IT IS THEREFORE, ORDERED that Petitioner, Arch American Insurance Company, is not required to pay reimbursement to Respondent for the therapeutic exercises provided to Claimant prior to the surgery to remove the ganglion cyst.

SIGNED November 21, 2003.

**JOHN H. BEELER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**