

STATE OFFICE OF ADMINISTRATIVE HEARINGS
300 West 15th Street, Suite 502
Austin, Texas 78701
DOCKET NO. 453-03-3647.M5
MDR TRACKING NO. M5-03-1465-01

MOBILE DIAGNOSTICS OF TEXAS	§	BEFORE THE STATE OFFICE
<i>PETITIONER</i>	§	
	§	
V.	§	OF
	§	
FEDERAL INSURANCE COMPANY	§	
<i>RESPONDENT</i>	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

I. SUMMARY

Mobile Diagnostics of Texas (Provider), the provider of services in this case, seeks reimbursement for synaptic nerve blocks. Provider treated the injured worker (Claimant) with the synaptic nerve blocks on October 2, 8, 23, and 30, 2001. Federal Insurance Company (Carrier) denied payment indicating the synaptic nerve blocks were not medically necessary. Subsequently, the Independent Review Organization (IRO) considered Provider's claim for reimbursement and recommended no reimbursement. Provider appealed the IRO's decision.

The Administrative Law Judge (ALJ) finds the synaptic nerve blocks were medically necessary; therefore, Provider is entitled to reimbursement.

II. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

On September 10, 2003, ALJ Michael J. O'Malley convened the hearing on the merits at the William P. Clements Building, 300 West 15th Street, Austin, Texas. Carrier appeared through its attorney, Tommy W. Lueders. Provider appeared through its attorney, Peter N. Rogers. After the evidence was presented, the record of the hearing closed the same day.

III. BACKGROUND, EVIDENCE, AND DISCUSSION

1. Background

On, Claimant fell down a ladder and then down a paper shoot while at work. As a result of the work-related injuries, Neal Griffin, D.C. treated Claimant for head, neck, right wrist, and lower back injuries.

2. Parties' Positions and Evidence

1. Provider's Position and Evidence

Dr. Griffin, Claimant's treating doctor, testified on behalf of Provider. Dr. Griffin stated that he referred Claimant to Provider for the synaptic nerve blocks based on his objective findings as to

the degree of pain Claimant was experiencing. Dr. Griffin testified that Claimant had acute injuries with substantial pain as a result of his work-related accident. He further testified that his assessment of Claimant's pain was confirmed later when Claimant had to have a cervical fusion and a lumbar fusion. Once Dr. Griffin referred Claimant to Provider, Charles D. Marable, M.D., who worked for the Provider and who is Board Certified in Neurology, ordered the synaptic nerve blocks for Claimant. In several letters of medical necessity written to Carrier, Dr. Marable indicated that the synaptic nerve blocks were medically necessary to reduce Claimant's pain. Dr. Marable further indicated that the synaptic nerve blocks reduce pain, increase blood flow, and increase motion, thus enhancing Claimant's functional productivity. Provider Ex. 1, Medical Documents at 31-32 and 35-36. The synaptic nerve blocks were performed on October 2, 8, 23, and 30, 2001.

2. Carrier's Position and Evidence

Provider did not present any witnesses but did submit medical records in evidence. Carrier argues that the synaptic nerve blocks were not medically necessary because the evidence does not show that Claimant's pain was significantly reduced as a result of some of the treatments.

3. ALJ's Analysis

The issue in this case is whether the synaptic nerve blocks were medically necessary for Claimant. The ALJ finds the synaptic nerve blocks were medically necessary; therefore, Provider should be reimbursed by Carrier.

Dr. Griffin, Claimant's treating doctor, determined that Claimant suffered from substantial pain due to his acute injuries. Dr. Griffin had treated Claimant since his injury and knew his pain level. As the treating doctor, Dr. Griffin had the responsibility to recommend treatments that would reduce Claimant's pain.¹ He, therefore, recommended the synaptic nerve blocks. After reviewing Claimant's condition, Dr. Marable also ordered the synaptic nerve blocks for Claimant to relieve his pain.²

In October 2001, less than one month after the injuries, Dr. Griffin referred Claimant to provider for the synaptic nerve blocks. On ____, the day of the first treatment, Claimant indicated he had a constant ache in his lumbar region. After the treatment, Claimant indicated that the ache was gone for the most part. For the second treatment on October 8, 2001, Claimant ached before the treatment and was only sore after the treatment. On October 23, 2001, Claimant was in pain before the treatment but had no pain at all after the treatment. For the last treatment on October 30, 2001, Claimant experienced no significant pain decrease as a result of the treatment.³ Provider Ex. 1. Medical Documents at 70-73.

¹ The goal of the procedure was to reduce Claimant's pain for several days and enhance his productivity.

² Synaptic nerve blocks must be ordered by a licensed M.D.

³ Dr. Marable could not have known that the October 30, 2001 treatment would not reduce Claimant's pain, especially given that the prior synaptic nerve blocks had reduced his pain.

Pursuant to § 408.021 of the Texas Workers' Compensation Act, TEX. LABOR CODE ANN. ch. 401, *et seq.*, 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.

Claimant suffered acute injuries resulting from his work-related accident. The acute injuries caused Claimant significant pain. The synaptic nerve blocks reduced Claimant's pain for several days, thus relieving him of the effects of his injury and, therefore, were medically necessary.⁴ TEX. LABOR CODE ANN. § 408.021. Provider should be reimbursed for the four synaptic nerve blocks that were performed on October 2, 8, 23, and 30, 2001.

IV. FINDINGS OF FACT

1. On, Claimant (Claimant) fell down a ladder and then down a paper shoot while at work. As a result of the accident, Claimant injured his head, neck, right wrist, and lower back.
2. At the time of the injuries, Claimant's employer had workers' compensation insurance through Federal Insurance Company (Carrier).
3. Neal Griffin, D.C. became Claimant's treating doctor.
4. Dr. Griffin referred Claimant to Mobile Diagnostics of Texas (Provider) for synaptic nerve blocks to treat his pain.
5. Dr. Griffin determined that the synaptic nerve blocks were necessary to treat Claimant's pain that resulted from his acute injuries.
6. Once Dr. Griffin referred Claimant to Provider, Charles D. Marable, M.D., who worked for the provider and who is Board Certified in Neurology, ordered the synaptic nerve blocks for Claimant.
7. Dr. Marable determined that the synaptic nerve blocks were medically necessary to treat Claimant's pain.
8. Synaptic nerve blocks reduce pain, increase blood flow, and increase motion, thus enhancing Claimant's functional productivity.
9. Provider seeks reimbursement for the synaptic nerve blocks performed on October 2, 8, 23, and 30, 2001.

⁴ The last treatment did not reduce Claimant's pain. However, after the treatment, Claimant did not seem to be in much pain.

10. Carrier denied reimbursement for the synaptic nerve blocks claiming they were not medically necessary.
11. On May 13, 2003, an Independent Review Organization (IRO) denied Provider reimbursement for the synaptic nerve blocks.
12. On May 27, 2003, Provider appealed the IRO's decision.
13. The Texas Workers' Compensation Commission (Commission) sent notice of the hearing to the parties on July 2, 2003. The hearing notice informed the parties of the matter to be determined, the right to appear and be represented, the time and place of the hearing, and the statutes and rules involved.
14. The hearing was held on September 10, 2003. Carrier appeared through its attorney, Tommy W. Lueders. Provider appeared through its attorney, Peter N. Rogers.

V. CONCLUSIONS OF LAW

1. The Commission has jurisdiction to decide the issue presented, pursuant to the Texas Workers' Compensation 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, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. §§ 402.073 and 413.031(d) and TEX. GOV'T CODE ANN. ch. 2003.
3. Proper and timely notice of the hearing was provided to the parties in accordance with TEX. GOV'T CODE ANN. ch. 2001 and 28 TEX. ADMIN. CODE § 148.4(b).
4. Pursuant to 28 TEX. ADMIN. CODE § 148.21(h) and (i), Provider had the burden of proving by a preponderance of the evidence that the synaptic nerve blocks were medically necessary.
5. The synaptic nerve blocks reduced Claimant's pain, thus relieving him of the effects of his injury and, therefore, were medically necessary. TEX. LAB. CODE ANN. § 408.021.
6. Based on the Findings of Fact and Conclusions of Law, Provider should be reimbursed for the synaptic nerve blocks performed on October 2, 8, 23, and 30, 2001

ORDER

IT IS HEREBY ORDERED that the request for reimbursement of Mobile Diagnostics of Texas for the synaptic nerve blocks for Claimant is granted as medically necessary.

SIGNED this 19th day of September 2003.

MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING