

concluded Ms. Moore. "If he needs additional intervention in the future regarding his injury, he should be re-evaluated at that time."

There is no showing that the requested additional ten individual psychotherapy sessions are medically necessary. Patient achieved his therapeutic goals as of January 20, 2003. No further evaluation has occurred.⁵ No deficiency has been established and no goal of the treatment delineated.

Petitioner had the burden of proof in this proceeding. Petitioner failed to prove that ten individual additional psychotherapy sessions for Patient are medically necessary.

II. FINDINGS OF FACT

1. ____ (Patient) sustained a work related injury on or about ____, when he slipped on wet pavement while installing a sprinkler system
2. On September 11, 2002, the treating professional, Brad Burdin, D.C., referred Patient to Lynn Sutton, Ph.D., a psychologist affiliated with Neuromuscular Institute of Texas (Petitioner), for a psychological evaluation.
3. Patient was diagnosed with depression, and ten sessions of individual psychotherapy were recommended.
4. Patient attended six individual psychotherapy sessions between November 25, 2002 and January 20, 2003. Cherith Moore, M.A., a Licensed Professional Counselor affiliated with Petitioner, conducted the individual psychotherapy sessions.
5. On January 20, 2003, Ms. Moore evaluated Patient's psychological status.
6. As of January 20, 2003, Patient had achieved his therapeutic goals.
7. Further professional psychological intervention, if any, regarding Patient's injury required an evaluation by a qualified professional at the time of the request.
8. No further evaluation by a qualified professional has occurred.
9. No deficiency has been established and no goal of the treatment delineated.
10. Petitioner seeks preauthorization to provide Patient ten additional individual psychotherapy sessions.
11. One Beacon American Insurance Company (Respondent) contends that ten additional individual psychotherapy sessions are not medically necessary.

⁵ While Dr. Burdin referred Patient for the initial psychological evaluation, he elected to make no referral for the supplemental sessions. There is no evidence Dr. Burdin had the training or experience to professionally evaluate Patient's psychological condition or prescribe psychological treatment.

12. By letter dated May 22, 2003, _____, an Independent Review Organization (IRO), concluded that ten additional individual psychotherapy sessions are not medically necessary for treatment of Patient's condition.
13. The IRO decision is deemed a Decision and Order of the Texas Workers' Compensation Commission (Commission).
14. Petitioner timely requested a hearing to contest the Commission's decision.
15. By letter dated June 30, 2003, the Commission issued a notice of hearing.
16. Petitioner and Respondent were each granted one continuance.
17. A one-day hearing was convened by Administrative Law Judge Howard S. Seitzman on September 23, 2003, in the hearing rooms of the State Office of Administrative Hearings.
18. David T. Duncan, Jr., represented Petitioner. William E. Weldon represented Respondent.

III. CONCLUSIONS OF LAW

1. The Texas Workers' Compensation 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. § 413.031(k) and TEX. GOV'T. CODE ANN. ch. 2003.
3. Petitioner timely requested a hearing in this matter pursuant to 28 TEX. ADMIN. CODE (TAC) §§ 102.7 and 148.3.
4. Notice of the hearing was proper and complied with the requirements of TEX. GOV'T. CODE ANN. ch. 2001.
5. An employee who has sustained 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 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. TEX. LAB. CODE ANN. § 408.021(a).
6. Petitioner had the burden of proof in this matter, which was the preponderance of evidence standard. 28 TAC §§ 148.21(h) and (i); 1 TAC § 155.41(b).
7. Based upon the Findings of Fact, Petitioner failed to prove by a preponderance of the evidence that ten additional individual psychotherapy sessions for Patient are medically necessary.

ORDER

THEREFORE IT IS ORDERED that Petitioner Neuromuscular Institute of Texas' request for relief is **DENIED**, and the preauthorization of ten additional individual psychotherapy sessions for ___ is **DENIED**.

SIGNED this 1st day of October, 2003.

HOWARD S. SEITZMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS