

SOAH DOCKET NO. 453-03-3807.M4
MDR Tracking No. M4-03-0823-01

STATE OFFICE OF RISK MANAGEMENT, Petitioner	§ § § § § § § § § §	BEFORE THE STATE OFFICE
v.		OF
OXYMED INC., Respondent		ADMINISTRATIVE HEARINGS

DECISION AND ORDER

This case is an appeal by State Office of Risk Management (Petitioner) from a decision of the Texas Workers' Compensation Commission's Medical Review Division (MRD) in a medical fee dispute. The MRD ordered reimbursement for rental of durable medical equipment, a neuromuscular stimulator. The issue in this case is whether preauthorization was required for the reimbursement in question. After considering the evidence and arguments, the Administrative Law Judge (ALJ) concludes that preauthorization was required and, therefore, Petitioner is not ordered to reimburse Respondent for the rental.

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 16, 2003, at the State Office of Administrative Hearings, 300 West 15th Street, Austin, Texas. Petitioner was represented by attorney, Stephen S. Vollbrecht. Respondent was represented by Peter Rogers. The hearing concluded and the record closed the same day.

II. DISCUSSION

Claimant, ____, sustained a compensable workers' compensation injury on ____. Claimant was prescribed a neuromuscular stimulator for pain control, which was rented from a provider other than Respondent. Claimant then went to Respondent with another prescription for the rental of a neuromuscular stimulator for three months. Respondent rented the neuromuscular stimulator to Claimant at a rate of \$375.00 per month and billed Petitioner. Petitioner denied the payment each month, stating that preauthorization was required. MRD ordered reimbursement for the rental payments on the basis that the \$375.00 per month charge was below the \$500.00 limit that required preauthorization and Petitioner appealed.

Pursuant to 28 TEX. ADMIN. CODE § 134.600 (h) (11), preauthorization is required if the expected cumulative rental is in excess of \$500.00. The expected cumulative rental in this case was \$1,125.00, therefore preauthorization was required. Provider did not obtain preauthorization, so no reimbursement is ordered.

IV. FINDINGS OF FACT

1. On ____, Claimant suffered a work-related injury
2. In the course of Claimant's rehabilitation, Respondent provided Claimant with durable medical equipment, specifically a neuromuscular stimulator.
3. The expected rental period was three months at the rate of \$375.00 per month, for a total expected cumulative rental of \$1,125.00.
4. Respondent did not request preauthorization for the rental.
5. Petitioner denied reimbursement because Respondent did not obtain preauthorization.
6. Respondent made a timely request to the Texas Workers' Compensation Commission's Medical Review Division (MRD) for medical dispute resolution with respect to the requested reimbursement.
7. The MRD granted Respondent's request for reimbursement.
8. Petitioner timely requested a hearing with the State Office of Administrative Hearings, seeking review and reversal of the MRD decision.
9. The Commission mailed notice of the hearing's setting to the parties at their addresses on July 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.
10. A hearing in this matter was convened on September 16, 2003, at 300 West 15th Street, Austin, Texas. Petitioner and Respondent participated in the case.

V. 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. Pursuant to 28 TEX. ADMIN. CODE § 134.600 (h) (11), preauthorization is required if the expected cumulative rental of durable medical equipment is in excess of \$500.00.
6. Based upon the Findings of Fact and Conclusions of Law, Petitioner's appeal of the decision ordering additional reimbursement should be granted, and Petitioner should not be required to reimburse Respondent.

ORDER

IT IS THEREFORE, ORDERED that Petitioner, State Office of Risk Management, is not required to pay reimbursement to Oxymed Inc. for the rental of the neuromuscular stimulator provided to Claimant, ____

SIGNED November 17, 2003.

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