

<b>GUY O. DANIELSON, III, M.D.</b>	§	<b>BEFORE THE STATE OFFICE</b>
	§	
<b>V.</b>	§	<b>OF</b>
	§	
<b>AMERICAN HOME ASSURANCE</b>	§	
<b>COMPANY</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**DECISION AND ORDER**

**I. INTRODUCTION**

American Home Assurance Company (Carrier) has appealed an independent review organization (IRO) determination. Guy O. Danielson, III, M.D. (Provider) asked for pre-authorization to perform a left ulnar nerve decompression and left carpal tunnel release (Disputed Services) on \_\_\_ (Claimant). The Carrier had denied the pre-authorization, contending the Disputed Services were not medically necessary to treat the Claimant's compensable injury. The IRO found that they were medically necessary.

The Carrier, who did not prevail before the IRO, has the burden of proof. The only disputed issue is whether the Disputed Services are medically necessary to treat the Claimant's compensable injury. As set out below, the Administrative Law Judge (ALJ) finds that they are not and denies the request for pre-authorization.

**II. DISCUSSION**

The hearing was convened at 1:30 p.m. on October 9, 2003. The Carrier appeared, through its representative, Dan C. Kelley. Neither the Provider nor the Claimant appeared. The Provider had filed the request for medical dispute resolution, hence he was a party. On October 2, 2003, the Provider filed a letter with the State Office of Administrative Hearings (SOAH) stating that he would not be participating in the hearing. The Claimant was notified of the scheduled hearing but never filed a motion to intervene, hence he was not a party.

On September 11, 2003, the Carrier sent the following request for admission to the Provider: Admit that the left ulnar nerve decompression and left carpal tunnel release requested to treat [the Claimant] is not medically necessary.

The Provider never responded to the request. A requested admission is admitted without necessity of an order of the judge unless the party to whom the request is directed timely serves upon the party requesting the admission a written answer or objection addressed to the request, signed by the party or the party's attorney. 1 TAC § 155.31(d)(2)(A). Based on that rule, the Provider has admitted that the Disputed Services are not medically necessary.

Based on the above, the ALJ finds the request for pre-authorization should be denied.

### **III. FINDINGS OF FACT**

1. \_\_\_\_\_ (Claimant) sustained a work-related injury on \_\_\_\_, while his employer was \_\_\_\_ (Employer) and its workers' compensation insurer was American Home Assurance Co. (Carrier).
2. Guy O. Danielson, III, M.D. (Provider) asked the Carrier for pre-authorization to perform a left ulnar nerve decompression and left carpal tunnel release (Disputed Services) on the Claimant.
3. The Carrier denied the requested pre-authorization.
4. The Disputed Services are not medically necessary.
5. The Provider filed a request for medical dispute resolution with the Texas Workers' Compensation Commission, which referred it to an independent review organization (IRO).
6. The IRO reviewed the medical dispute and found that the Disputed Services were medically necessary.
7. After the IRO decision was issued, the Claimant asked for a contested-case hearing by a State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ).
8. Notice of a October 9, 2003, hearing on this dispute was faxed to the Provider and the Carrier and mailed to the Claimant on August 6, 2003.
9. On October 9, 2003, William G. Newchurch, an ALJ with SOAH held a hearing on this case at the William P. Clements, Jr. Building, 300 W. 15<sup>th</sup> Street, 4<sup>th</sup> Floor, Austin, Texas. The hearing concluded, and the record closed on that same day.
10. The Carrier appeared at the hearing through its attorney, Dan C. Kelley.
11. Neither the Provider nor the Claimant appeared at the hearing.
12. By letter filed on October 2, 2003, the Provider indicated that he would not participate in the hearing.
13. The Claimant never filed a request to intervene.

### **IV. CONCLUSIONS OF LAW**

1. 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. LABOR CODE ANN. (Labor Code) §§ 402.073(b) and 413.031(k) (West 2003) and TEX. GOV'T CODE ANN. (Gov't Code) ch. 2003 (West 2003).

2. Adequate and timely notice of the hearing was provided in accordance with Gov't Code §§ 2001.051 and 2001.052.
3. Based on Gov't Code § 2003.050 (a) and (b), 1 TEX. ADMIN. CODE (TAC) § 155.41(b) (2003), and 28 TAC §§ 133.308(v) and 148.21(h) (2002), the Carrier has the burden of proof in this case.
4. 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. Labor Code § 408.021(a).
5. Pre-authorization is required for the Disputed Services. 28 TAC § 134.600(h).
6. Based on the above Findings of Fact and Conclusions of Law, the Disputed Services are not medically necessary and the request for pre-authorization should be denied.

### **ORDER**

**IT IS ORDERED THAT** the Provider's request for pre-authorization for the Disputed Services is denied.

**SIGNED October 13, 2003.**

---

**William G. Newchurch**  
**Administrative Law Judge**  
**State Office of Administrative Hearings**