

JOHN A. SAZY, M.D.	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
VS.	§	OF
	§	
INSURANCE COMPANY OF THE	§	
STATE OF PENNSYLVANIA,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

John A. Sazy, M.D. (Petitioner), appealed an Independent Review Organization (IRO) decision denying preauthorization of a magnetic resonance imaging (MRI), three lumbar epidural steroid injections, and three facet injections. This decision concludes that requested services are medically necessary and should be preauthorized.

I. JURISDICTION & HEARING

Because there were no challenges to notice or jurisdiction, those matters are set forth in the findings of fact and conclusions of law without further discussion here.

The hearing was held on October 29, 2003, before Bill Zukauckas, Administrative Law Judge (ALJ), at the State Office of Administrative Hearings (SOAH), Fourth Floor, William P. Clements Building, 300 West Fifteenth Street, Austin, Texas. Dr. Sazy appeared by phone on behalf of himself and the injured worker (Claimant). The Carrier, Insurance Company of the State of Pennsylvania, appeared and was represented by Attorney Scott Boutan. The record closed the same day.

II. DISCUSSION

A. Background

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 injury; (2) promotes recovery; or (3) enhances the ability to return to or retain employment. TEX. LABOR CODE ANN. § 408.021. "Health care" includes "all reasonable and necessary medical . . . services." TEX. LABOR CODE § 401.011(19).

The Claimant is a 25-year-old male who injured his back, on the job, on _____, when he was carrying some rugs weighing approximately 65 pounds. He was first seen by Provider in June 1996. At the time, Claimant was 19 years old and was treated conservatively by the Provider. An MRI of his back was performed in 1996 and repeated in March 1997. A thoracic MRI was performed during that same time period and showed a bulge at the T11-12 disc that was compressing the spinal cord.

As of November 2001, Claimant continued to have very serious back pain. At that time, Provider concluded more serious measures were necessary to treat Claimant's back problem and performed a very serious operation called a thoracotomy with anterior fusion at T11-12, which involved opening the front of his chest, deflating a lung, moving the heart, and performing the spine fusion. Subsequent to the surgery, which Provider represents was successful and relieved the pain it intended to address, Claimant began reporting new back pain in areas of the back beyond the fused area. Provider is requesting preauthorization for a new MRI study to target the pain area and three lumbar epidural steroid injections and three facet injections, to address the pain at the identified area.

The Carrier denied the requests as did the IRO.

B. Medical Necessity of the Procedures

1. Dr. Sazy

Provider believes Claimant is a legitimate patient who was willing to undergo a very serious and complicated surgery to address his back problems. Provider represents this new MRI request is needed to identify the exact site of Claimant's pain and to determine precisely where the requested injections need to be targeted.

Provider notes that recent X-rays show some changes at the L5-S1 region and suspects it is the specific area now causing pain and needing the injections he requests. He conceded Claimant received one set of injections at this level and those injections have admittedly provided no pain relief. However, he testified that sometimes it takes two to three injections to a given area before a patient sees results. He does not believe the existing MRI studies done more than a year ago are diagnostically usable and thus makes this request for a new MRI.

Provider will not personally perform the MRI, the epidural steroid or facet injections he has requested on behalf of Claimant. He does believe these are medically necessary to target and address Claimant's back pain.

2. Carrier

The Carrier stressed the remoteness of the injury and questioned whether diagnostic studies are appropriate for an injury more than eight years old. Carrier also questioned whether the Claimant's current complaints are related to the compensable injury at all and whether more injections should be done where one set had not shown any response.

3. Analysis

The ALJ concludes that Provider's requests for MRI testing followed by a series of two more MRI-directed epidural steroid and facet injections should be authorized. This decision is based on Dr. Sazy's extensive surgical involvement with this patient and his persuasive opinion about the need for the testing and injections. Dr. Sazy's opinion is supported by objective tests, particularly the most recent X-ray to the L5-S1 area showing apparent changes in that area and his experience treating back pain of this kind by these methods.

The ALJ believes Dr. Sazy has shown the medical necessity of the new MRI and two more sets of epidural steroid and facet injections. For clarity, the ALJ believes Petitioner's testimony indicated two more, for a total of three sets of injections, would provide any relief that was to be had.

III. FINDINGS OF FACT

1. _____, Claimant, suffered a compensable injury on _____, when he injured his back while carrying carpet.
2. Soon after the injury, Claimant presented to John A. Sazy, M.D.(Provider), who treated him conservatively for several years.
3. As of November 2001, Claimant continued to have very serious back pain. At that time, Provider concluded more serious measures were necessary to treat Claimant's back problem and performed a very serious operation called a thoracotomy with anterior fusion at T11-12, which involved opening the front of his chest, deflating a lung, moving the heart, and performing the spine fusion.
4. The November 2001 thoracotomy was successful and resolved the pain problems at the T11-12 area of the back.
2. After Claimant's successful thoracotomy, Claimant began experiencing pain at a different level in his back.
3. Provider seeks a new MRI and two more sets of epidural steroid and facet injections on behalf of Claimant.
4. On July 10, 2003, an independent review organization report denied Dr. Sazy's preauthorization request.
5. Dr. Sazy timely requested a hearing before the State Office of Administrative Hearings, seeking preauthorization of the requested services.
6. The MRI will provide Dr. Sazy with a better idea of the nature of the Claimant's current condition, the exact location of Claimant's pain complaints, and target location requested for the steroid and facet injections.
7. The existing MRI studies are too remote in time to serve as a basis for current treatment decisions.
8. The MRI and two more sets of epidural steroid and facet injections are reasonably required by the nature of the Claimant's injury.
9. A hearing was conducted on October 29, 2003.
10. Provider and Carrier appeared at the hearing.

IV. CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing, including the authority to issue a decision and order. TEX. LABOR CODE ANN. § 413.031(k).
2. All parties received proper and timely notice of the hearing. TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
3. The MRI and two more sets of epidural steroid and facet injections are medically necessary to address Claimant's compensable back pain. TEX. LABOR CODE ANN. §§ 401.011(19) and 408.021.
4. The Carrier should pay for the MRI and two more sets of epidural steroid and facet injections.

ORDER

IT IS, THEREFORE, ORDERED that the magnetic resonance imaging and two additional sets of targeted epidural steroid and facet injections requested by John A. Sazy, M.D., on behalf of Claimant be, and the same are hereby, authorized.

SIGNED December 10, 2003.

**BILL ZUKAUCKAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**