

SOAH DOCKET NO. 453-04-3631M4R

BEHAVIORAL HEALTHCARE ASSOCIATES,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
	§	
vs.	§	OF
	§	
CONTINENTAL CASUALTY COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

This case is a dispute over whether Continental Casualty Company (Carrier) should reimburse Behavioral Healthcare Associates (Petitioner) for individual psychotherapy sessions provided to Claimant. The Administrative Law Judge (ALJ) concludes that Petitioner met its burden of proving that individual psychotherapy sessions should be reimbursed as set forth below.

I. JURISDICTION, NOTICE, AND VENUE

There were no contested issues of jurisdiction, notice or venue. Those issues are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

II. STATEMENT OF THE CASE

Administrative Law Judge Suzanne Formby Marshall convened a hearing in this case on May 5, 2004, at the State Office of Administrative Hearings (SOAH), William Clements State Office Building, Austin, Texas. Carrier appeared through its attorney, Doug Pruett. Petitioner appeared through Dana Rangel, an employee. Neither party called any witnesses to testify, but submitted medical records which were admitted into evidence. The record closed the same day.

III. DISCUSSION

Carrier preauthorized 12 individual psychotherapy sessions (CPT Code 90844) for Claimant for the period December 17, 2001, through March 18, 2002. Provider's Ex. 2, p. 2. On April 8, 2002, Carrier preauthorized an additional six therapy sessions (CPT Code 90844) for April 8 through June 7, 2002. Provider's Ex. 1, p. 28. Provider submitted reimbursement requests for psychotherapy treatment for dates of service January 3, 10, 14, 26, February 1, 8, 13, 25, March 7, 14, 25, and April 1, 11, and 18, 2002. The total amount billed was \$ 1,708.00. Carrier's Ex. 1, p. 7. Carrier denied the claims on the grounds that the services were not related to the compensable injury and that the services were not properly documented. The only issue in this case is whether Provider sufficiently documented the claim.¹

¹ As noted in the IRO decision, compensability of the services had previously been decided to include

Petitioner filed a timely Request for Medical Dispute Resolution, with the exception of date of service January 3, 2002.² On January 13, 2004, the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (TWCC) issued its Findings and Decision, which ruled that Petitioner was entitled to reimbursement for the services rendered on January 10 and 26, 2002, and ordered Carrier to reimburse Provider \$ 244.00. The MRD found that the services provided on the remaining dates in dispute were not properly documented. On January 28, 2004, Petitioner filed a timely request for a hearing before SOAH.

Having considered the evidence in this case, the ALJ finds that the psychotherapy sessions were adequately documented by Petitioner and should be reimbursed by Carrier. Although Carrier argues that the actual length of each session is not documented on the therapy notes, the ALJ finds that Petitioner's failure to inscribe the session's length on the notes for each session does not automatically establish that they are insufficient to support a claim for reimbursement.

Here, Petitioner submitted bills for only one unit of service, which was preauthorized, per date of service. While preauthorization of a service does not constitute automatic approval of the amount billed, the Commission's Medical Fee Guideline (Guideline) establishes that a unit of psychotherapy billed under CPT Code 90844 represents therapy of 45-50 minutes of service. If the session lasted less or more than 45-50 minutes, Petitioner should have billed the session under a different CPT code, such as 90841, 90842, or 90843. As noted by Ms. Rangel, the records show that two sessions actually exceeded the 45-50 minutes allowable although Petitioner only billed for one unit of service, pursuant to CPT Code 90844. Provider's Ex. 1, pp. 13, 15. Carrier's EOBs specify that CPT Code 90844 is used for psychotherapy sessions of 45-50 minutes and it reduced the original amount requested by Provider from \$388.00 to \$122.00 per session, pursuant to the Guideline. Considering that Carrier preauthorized psychotherapy sessions pursuant to CPT Code 90844 and reduced the amount billed by Provider to be consistent with the Guideline for CPT Code 90844, the ALJ finds that Carrier reasonably understood that the length of the sessions were from 45-50 minutes.

Carrier also objects to the legibility of the handwritten notes. While the notes are handwritten and are difficult to read, they sufficiently state the problem addressed in each session, describe the treatment rendered during the sessions, discuss the current status of the Claimant, and include recommendations for the future. As such, the ALJ finds that the documentation is sufficient to establish that the services were rendered and should be reimbursed.³ However, Petitioner provided services on dates that were not included in the Carrier's preauthorization, *i.e.*, March 25 and April 1. Consequently, the ALJ does not order reimbursement for these dates of service.

depression.

² 28 TEX. ADMIN. CODE (TAC) ' 133.307(d)(1).

³ It appears from the record that Carrier has already reimbursed Provider for dates of service January 10 and 26. Provider's Ex. 1, pp. 9, 10.

IV. FINDINGS OF FACT

1. Continental Casualty Company (Carrier) preauthorized individual psychotherapy sessions (CPT Code 90844) for Claimant from December 17, 2001, through March 18, 2002.
2. Carrier also preauthorized individual psychotherapy sessions (CPT Code 90844) for Claimant from April 8 through June 7, 2002.
3. Behavioral Healthcare Associates (Provider) provided individual psychotherapy treatment to Claimant on January 3, 10, 14, 26, February 1, 8, 13, 25, March 7, 14, 25, and April 1, 11, and 18, 2002.
4. CPT Code 90844 represents one unit of psychotherapy treatment. A unit is equivalent to 45 to 50 minutes of treatment.
5. Provider's documentation consisted of individual counseling notes for each psychotherapy session, describing the Claimant's problems, the treatment or intervention rendered during the session, the current status of the Claimant, and recommendations for the future. Each session is dated and described as Session 1 of 12, 2 of 12, etc.
6. Provider requested reimbursement for one unit of psychotherapy sessions on the dates of service described in Finding of Fact No. 3.
7. Carrier has reimbursed Petitioner for services rendered on January 10 and 26, 2002.
8. Carrier did not preauthorize psychotherapy services for March 25 and April 1, 2002.
9. Carrier reasonably understood that the services provided by Petitioner consisted of psychotherapy treatment lasting 45 to 50 minutes per session.
10. Carrier declined to reimburse Provider for the treatment based on its claim that Provider had failed to provide sufficient documentation of the claim.
11. Provider filed a timely Request for Medical Dispute Resolution for all disputed dates of service except January 3, 2002.
12. On January 13, 2004, the MRD issued its Findings and Decision, which ruled that Provider was entitled to reimbursement only for dates of service January 10 and 26, 2002, in the amount of \$244.00.
13. On January 28, 2004, Provider filed a timely request for a hearing before SOAH.
14. Notice of the hearing was sent to all parties on March 8, 2004.

15. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
16. The hearing was held May 5, 2004. Provider and Carrier participated in the hearing, which was adjourned the same day.

V. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. § 413.031 and TEX. GOV'T CODE ANN. ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. § 2001.052.
3. Pursuant to 28 TEX. ADMIN. CODE § 134.202, the Commission's 1996 Medical Fee Guideline applies to this dispute.
4. Petitioner has the burden of proof in this matter. 28 TEX. ADMIN. CODE § 148.21(h).
5. The individual psychotherapy sessions were preauthorized by Carrier and were adequately documented by Provider.
6. Carrier should reimburse Petitioner for the individual psychotherapy sessions on January 14, February 1, 8, 13, 25, March 7, 24, April 11 and 18, 2002.

ORDER

Continental Casualty Company is required to reimburse Behavioral Healthcare Associates for individual psychotherapy sessions provided to Claimant on January 14, February 1, 8, 13, 25, March 7, 24, April 11, and 18, 2002.

SIGNED June 15, 2004.

**SUZANNE FORMBY MARSHALL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**