

**SOAH DOCKET NO. 453-04-4751.M4  
TWCC MDR NO. M4-03-8585-01**

<b>HOUSTON INJURY REHABILITATION, Petitioner</b>	§ § § § § § § § § §	<b>BEFORE THE STATE OFFICE</b>    <b>OF</b>    <b>ADMINISTRATIVE HEARINGS</b>
<b>V.</b>		
<b>ONEBEACON INSURANCE COMPANY, Respondent</b>		

**DECISION AND ORDER**

**I. DISCUSSION**

On March 16, 2004, the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (Commission) issued a decision that Houston Injury Rehabilitation (Petitioner) was not entitled to reimbursement from Onebeacon Insurance Company (Respondent) for services billed through CPT Codes 97545WH and 97546WH. Petitioner requested a hearing before the State Office of Administrative Hearings (SOAH).

The Administrative Law Judge (ALJ) concludes that Petitioner is entitled to reimbursement in that the reasons given in Respondent's Explanation of Benefits (EOBs) fail to provide adequate notice of the basis of the denial after Respondent had preauthorized the delivery of the services. Petitioner is entitled to reimbursement by Respondent of the sum of \$6,850.00.

On \_\_\_\_, Claimant, \_\_\_\_, suffered a work-related injury. On February 4, 2002, Claimant presented herself to Petitioner for diagnosis and treatment. Petitioner diagnosed Claimant's condition as requiring medical attention. Claimant obtained the services of a surgeon, and surgery was performed to correct Claimant's torn muscle.

On June 13, 2002, Respondent issued a written preauthorization for Petitioner to provide work hardening to Claimant five times a week for three weeks. Between May 29, 2002, and August 8, 2002, Petitioner provided treatment to Claimant on fifteen occasions, for which Petitioner submitted weekly claim forms to Respondent. Respondent issued EOBs denying each of the claims. Respondent's reasons for denying the claims were one or more of the following Reason Codes:

- Code 1: Bill is for an injury which is no longer considered to require active treatment.
- Code 2: Functional capacity
- Code 3: Work hardening, extent of injury, not appropriately documented per adjuster.

On February 13, 2003, and March 10, 2003, Petitioner requested a reconsideration of Respondent's denial. Respondent denied payment for the services on the same basis. On April 16, 2003, Petitioner filed a request for Medical Resolution with the Commission. On March 16, 2004, the MRD denied Petitioner's request for reimbursement on the grounds that

Petitioner had failed to submit additional requested documentation to the MRD.<sup>1</sup> On March 24, 2004, Petitioner filed an appeal of the MRD's decision. On April 13, 2004, the Commission referred the matter to SOAH for a hearing.

The ALJ convened a hearing on November 1, 2004. Petitioner was represented by its principal, Linh Vo, D.C., and Respondent was represented by counsel, Jane Lipscomb Stone.

The provisions of 28 TEX. ADMIN. CODE § 134.600(e) and (h)(9) require that a provider shall request and obtain preauthorization from the carrier prior to providing or receiving health care for "work hardening . . . services provided in a facility that has not been approved for exemption by the commission." Petitioner satisfied that requirement upon receipt of the written notice of preauthorization from Respondent on June 12, 2003.

Respondent argues that Petitioner's request for payment was inadequate because: (1) Petitioner failed to provide a complete medical bill that documented the daily treatment given to the Claimant, (2) Petitioner failed to document the Claimant's behavioral health status, and (3) Petitioner failed to document any change in the treatment plan or in the patient's condition.

The Commission's rules define a "complete medical bill" as requiring "supporting documentation when such documentation is specifically required by Commission rules or guidelines." 28 TEX. ADMIN. CODE § 133.1(a)(3)(D). The Commission's Medical Fee Guideline (1966) ("Guideline") requires that a provider of work hardening services must document "daily treatment and patient response to treatment." Guideline, Section II.E.8, at 38. The Guideline also requires a provider to address the behavioral needs of the injured worker. Guideline, Section II.E., at 37. Finally, the Guideline requires a provider to write the treatment plan for the patient and write changes to the plan based on documented changes in the patient's condition. Guideline, Section II.E.7.c., at 38.

Petitioner argues that it provided a complete medical bill in that its bills contained weekly summaries of the same information that it would have provided on a daily basis and that such summaries had been accepted by Respondent in billings for similar services to other claimants. Petitioner argues that its treatment plans, although similar throughout Petitioner's treatment of Claimant, satisfied the requirements of the rule. Petitioner argues its treatment records reflect ongoing evaluations of the Claimant's behavioral status.

If an insurance carrier intends to deny payment on a medical bill, then its EOB is required to meet certain standards. The provisions of 28 TEX. ADMIN. CODE § 133.1(a)(6) require that the carrier's EOB give "**all the reason(s) for the reduction and/or denial**" [emphasis supplied]. Respondent's three Reason Codes, as quoted in the text above, fail to satisfy that notice requirement. Codes 1 and 2 do not appear to relate at all to the facts or issues in Petitioner's treatment of the Claimant. Code 3 provides no notice to Petitioner as to the manner in which Petitioner's documentation was inadequate or how "extent of injury" relates to the billing for the services that were preauthorized and provided.

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<sup>1</sup> 1 During the hearing, Petitioner provided credible evidence that Petitioner had provided the MRD with the additional documentation that it had requested. According to Petitioner, the MRD misplaced the materials and denied the claim based on the MRD's own inability to locate the documents. This testimony and the evidence of Petitioner's provision of the requested materials to the MRD were admitted without objection.

Respondent's denial did not satisfy the requirements of 28 TEX. ADMIN. CODE § 133.1(a)(6) in that the carrier's EOB failed to give "all the reason(s) for the reduction and/or denial." Accordingly, Petitioner is entitled to reimbursement of \$6,850.00 for services provided Claimant between May 29, 2002, and August 8, 2002.

## II. FINDINGS OF FACT

1. Houston Injury Rehabilitation (Petitioner) filed its dispute resolution request with the Commission on March 24, 2004.
2. The dates of service in issue were May 29, 2002, through August 8, 2002.
3. Onebeacon Insurance Company (Respondent) denied Petitioner's requests for reimbursement in its Explanations of Benefit (EOBs), using the following Reason Codes: Abill is for an injury which is no longer considered to require active treatment"; "functional capacity"; and "work hardening, extent of injury, not appropriately documented per adjuster."
4. On February 13, 2003, and March 10, 2003, Petitioner requested a reconsideration of Respondent's denial in light of Respondent's written preauthorization of the services, and Respondent denied payment for the services on the same basis.
5. On March 16, 2004, the Medical Review Division (MRD) of the Commission denied Petitioner's request for reimbursement on the grounds that Petitioner had failed to submit additional requested documentation to the MRD.
6. On March 24, 2004, Petitioner filed an appeal of the MRD's decision.
7. On April 13, 2004, the Commission referred the matter to the State Office of Administrative Hearings (SOAH) for a hearing.
8. Administrative Law Judge Paul Keeper convened a hearing on November 1, 2004, at which Petitioner was represented by its principal, Linh Vo, D.C., and Respondent was represented by counsel, Jane Lipscomb Stone.
9. The provisions of 28 TEX. ADMIN. CODE § 134.600(e) and (h)(9) require that a provider shall request and obtain preauthorization from the carrier prior to providing or receiving health care for "work hardening . . . services provided in a facility that has not been approved for exemption by the commission." Petitioner satisfied that requirement upon receipt of the written notice of preauthorization from Respondent on June 12, 2003.
10. Respondent's denial of Petitioner's request for payment based on Reason Codes 1 and 2 do not relate to the facts or issues in Petitioner's treatment of the Claimant. Code 3 provides no notice to Petitioner as to the manner in which Petitioner's documentation was inadequate or how "extent of injury" relates to the billing for the services that were preauthorized and provided.

### III. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to the Texas Workers' Compensation Act, specifically TEX. LABOR CODE ANN. §413.031(k), and TEX. GOV'T CODE ANN. ch. 2003.
2. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 28 TEX. ADMIN. CODE ch. 148.
3. The request for a hearing was timely made pursuant to 28 TEX. ADMIN. CODE § 148.3.
4. Adequate and timely notice of the hearing was provided according to TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
5. Petitioner has the burden of proof in this matter. 28 TEX. ADMIN. CODE §§ 148.21(h) and 133.308(w).
6. Respondent's denial of Petitioner's request for reimbursement did not satisfy the requirements of 28 TEX. ADMIN. CODE § 133.1(a)(6) in that the carrier's Explanation of Benefits failed to give "all the reason(s) for the reduction and/or denial."
7. Petitioner is entitled to reimbursement of \$6,850.00 for services provided Claimant between May 29, 2002, and August 8, 2002.

### ORDER

**THEREFORE IT IS ORDERED** that Houston Injury Rehabilitation is entitled to reimbursement of \$6,850.00 from Onebeacon Insurance Company for charges associated with work hardening services provided during the period May 29, 2002, through August 8, 2002.

**SIGNED November 18, 2004.**

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**PAUL D. KEEPER  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**