

SERVICE LLOYDS INSURANCE COMPANY, Petitioner	§	BEFORE THE STATE OFFICE
	§	
	§	
	§	OF
v.	§	
	§	
ALLIANCE PAIN CENTERS, Respondent	§	ADMINISTRATIVE HEARINGS
	§	
	§	

DECISION AND ORDER

I. Introduction

Service Lloyds Insurance Company (Carrier) has appealed a decision of an independent review organization (IRO) on behalf of the Texas Workers' Compensation Commission (Commission). The decision concerned Carrier's denial of the request of Alliance Pain Centers (Alliance or Provider) for preauthorization of medical services for ___ (Claimant). The IRO found that Alliance's request to provide Claimant with additional work hardening is medically necessary to treat her compensable injury.

The only disputed issue is whether the requested four weeks of work hardening is medically necessary for that purpose. As set out below, the Administrative Law Judge (ALJ) finds that the additional work hardening is medically necessary and grants the preauthorization request.

II. Findings of Fact

1. On ___, ___ (Claimant) sustained a work-related injury to her left shoulder as a result of her work activities (compensable injury).
2. On the date of injury, Claimant's employer was ___, and its workers' compensation insurance carrier was Service Lloyds Insurance Company (Carrier).
3. As a result of the compensable injury, Claimant suffered a left rotator cuff tear.
4. On July 3, 2003, Claimant had surgery on her shoulder to repair the rotator cuff tear.
5. Post-operatively, Claimant was treated with physical therapy/rehabilitation.
6. In October 2003, Claimant's treating doctor, Jade Malay, D.C. (Dr. Malay) with Alliance Pain Centers (Alliance or Provider), requested Carrier preauthorize five weeks of work

- conditioning for Claimant. Carrier approved two weeks of work conditioning.
7. From November 3 to November 17, 2003, Dr. Malay provided work conditioning to Claimant.
 8. Claimant progressed with the two weeks of work conditioning. Dr. Malay, however, determined more work conditioning was needed and requested an additional four weeks of work conditioning for Claimant.
 9. In January 2004, Carrier denied Dr. Malay's request for an additional four weeks of work conditioning.
 10. On April 1, 2004, Carrier's designated doctor, Roby D. Mize, M. D., recommended Claimant be placed in a work hardening program.
 11. Alliance and Dr. Malay requested Carrier preauthorize four weeks of work hardening for Claimant.
 12. Carrier on April 21, 2004, approved only two weeks of work hardening for Claimant.
 13. Dr. Malay provided Claimant with two weeks of work hardening for Claimant.
 14. Claimant improved with the two weeks of work hardening treatment.
 15. In May 2004, Provider sought preauthorization from Carrier for an additional four weeks of work hardening for Claimant so that Claimant could complete the program and receive maximum benefit from the treatment.
 16. On May 25, 2004, Carrier denied Provider's preauthorization request for an additional four weeks of work hardening for Claimant.
 17. On June 10, 2004, Carrier again denied Provider's preauthorization request
 18. After Carrier twice denied preauthorization for the additional four weeks of work hardening, Provider filed with the Texas Workers' Compensation Commission (TWCC) a request for medical dispute resolution concerning the preauthorization request.
 19. An independent review organization (IRO) reviewed the medical dispute and found that the additional four weeks of work hardening should be authorized because, although Claimant had responded well to the work hardening program, she required further treatment to ensure she did not regress.
 20. After the IRO decision was issued in September 2004, Carrier asked for a contested-case hearing before a State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) concerning the dispute.
 21. From September 20 to October 28, 2004, Dr. Malay with Alliance provided Claimant with work hardening.
 22. Notice of a contested-case hearing concerning the dispute was mailed on October 1, 2004, to Carrier and Provider. The notice informed the parties of the time, place, and nature of the

hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and the matters to be considered.

23. On March 8, 2005, Carol Wood, a SOAH ALJ, held a contested-case hearing concerning the dispute at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. The hearing concluded and the record closed that day.
24. Carrier appeared at the hearing through its attorney, Mark H. Sickles.
25. Provider appeared at the hearing through its attorney, William Maxwell.

III. 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 2004) and TEX. GOV'T CODE ANN. (Gov't Code) ch. 2003 (West 2004).
2. Adequate and timely notice of the hearing was provided in accordance with Gov't Code §§ 2001.051 and 2001.052.
3. 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 that cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. Labor Code § 408.021(a).
4. Based on the above Findings of Fact and Gov't Code § 2003.050 (a) and (b), 1 TEX. ADMIN. CODE (TAC) § 155.41(b) (2004), and 28 TAC §§ 133.308(v) and 148.21(h) (2004), Carrier has the burden of proof in this case.
5. TWCC must specify by rule which health care treatments and services require express pre-authorization by a carrier. A carrier is not liable for those specified treatments and services unless preauthorization is sought by the claimant or a health care provider and either obtained from the carrier or ordered by TWCC. Labor Code § 413.014.
6. Preauthorization is required for work hardening. 28 TAC § 134.600(h)(9).
7. Claimant needed the prescribed additional four weeks of work hardening.
8. The additional four weeks of work hardening should be authorized at this time.

ORDER

IT IS THEREFORE ORDERED that Service Lloyds Insurance Company authorize an additional four weeks of work hardening for Claimant.

SIGNED April 4, 2005.

**CAROL WOOD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**