

**GREAT AMERICAN ALLIANCE
INSURANCE COMPANY,**
Petitioner

V.

SHAHID RASHID, M.D.
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Great American Alliance Insurance Company (Carrier) appealed the decision of Maximus, an independent review organization certified by the Texas Department of Insurance, in Texas Workers' Compensation Commission (TWCC) Medical Review Division tracking number M2- 05-0052-01, granting preauthorization to Shahid Rashid, M.D. (Provider) for a 30-session chronic pain management program for a workers' compensation claimant (Claimant). This decision finds that the Provider is not entitled to preauthorization for the requested chronic pain management program.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There were no contested issues of jurisdiction, notice or venue. Therefore, those issues are addressed in the findings of fact and conclusions of law without further discussion here.

The Administrative Law Judge (ALJ) convened the hearing January 27, 2005. The Carrier was represented by Steven M. Tipton, attorney. The Carrier appeared telephonically though Margarita E. Olivarez, LPC-Intern. At the conclusion of the hearing that day, the record was closed.¹

II. EVIDENCE AND BASIS FOR DECISION

The documentary record consisted of two exhibits containing medical records. The Carrier submitted a packet containing 88 pages (Carrier's Exh. 1, consisting of pre-marked exhibits A - H) and the Provider submitted 99 pages (Provider's Exh. 1).

The Claimant, a 50-year-old man, injured his right wrist and hand on ____, when he attempted to lift a 40-foot joist. At the time of the compensable injury, the Carrier was responsible for Claimant's workers' compensation insurance coverage. The Claimant's treatment included injections, surgery, and a work hardening program. The Claimant continues to suffer from pain.²

¹After the hearing concluded, Ms. Olivarez faxed the Administrative Law Judge additional argument concerning some of the issues raised in the hearing. Ms. Olivarez did not request leave to file the document and it does not appear that she forwarded a copy to Mr. Tipton. The ALJ did not consider the document in preparation of this Decision and Order.

² Provider's Exh. No. 1, pages 6 and 7.

In 2004, the Claimant had surgery to decompress the ulnar nerve at Guyon's canal.³ Khaim Panday, M.D., noted in his examination of May 26, 2004, that the Claimant suffered from Kienbock's disease,⁴ a condition in which there is a lack of blood supply to the lunate bone in the wrist resulting in an aseptic necrosis of the lunate bone.⁵

Charles R. Crane, M.D., performed a medical record review. He found that the Claimant's numbness improved following surgery to decompress the right ulnar nerve. In Dr. Crane's opinion, there is no medical necessity for ongoing physical therapy or other care, such as chronic pain management, because it will not have any beneficial effect on the condition by improving blood flow to the lunate bone. He also stated that the ulnar nerve compression at the wrist was related to the work injury, but that ulnar nerve compression at the wrist is not known to be associated with Kienbock's disease.⁶

Ms. Olivarez testified that the South Texas Clinic for Pain Management operated by the Provider is not CARF accredited.⁷ She stated that the interdisciplinary team consisted of the pain team physician, a certified medical assistant, and herself. Ms. Olivarez admitted the team did not have a psychologist or any of the other trained professionals listed in the CARF Specific Program Standards.⁸

The Carrier argued that the proposed treatment was not medically necessary because the Claimant's Kienbock's disease is not related to the work injury, which was treated with decompressive surgery. Additionally, the Carrier pointed out that the medical records contain no mention of psychological issues, or the Claimant being prescribed anti-depressant or anti-anxiety medications. Further, the Carrier argued that the chronic pain management program proposed by Ms. Olivarez did not meet TWCC requirements.⁹ Ms. Olivarez argued that the IRO decision should

³ This is commonly referred to as carpal tunnel syndrome.

⁴ Provider's Exh. No. 1, page 83.

⁵ Carrier's Exh. No. 1, B - 2.

⁶ Carrier's Exh. 1, B - 1 and 2.

⁷ CARF is the Commission on Accreditation of Rehabilitation Facilities.

⁸ Section 2. IPR. - 146 Medical Rehabilitation.

⁹ 28 TEX. ADMIN. CODE (TAC) § 134.202 (e) (5) provides:

(e) Payment policies relating to coding, billing, and reporting for commission-specific codes, services, and programs are as follows:

(5) Return To Work Rehabilitation Programs. The following shall be applied for billing and reimbursement of Work Conditioning/General Occupational Rehabilitation Programs, Work Hardening/Comprehensive Occupational Rehabilitation Programs, Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs, and Outpatient Medical Rehabilitation Programs. To qualify as a commission Return to Work Rehabilitation Program, a program should meet the "Specific Program Standards" for the program as listed in the most recent Commission on Accreditation of Rehabilitation Facilities (CARF) Medical Rehabilitation Standards Manual. Section 1 standards regarding Organizational Leadership, Management and Quality apply only to CARF accredited programs.

be given presumptive weight, and the proposed chronic pain program is for treatment of the Claimant's work injury.

The ALJ concludes the Carrier proved the requested 30-session chronic pain management program is not medically necessary healthcare for the Claimant. The Claimant's current pain complaints are related to Kienbock's disease, not to the Claimant's work injury which was successfully treated with decompressive surgery and a work hardening program. Further, the Carrier proved that the requested chronic pain management program did not have a psychologist as part of the interdisciplinary team as required by TWCC rule. This decision orders that the Carrier is not required to provide the requested 30-session chronic pain management program.

III. FINDINGS OF FACT

1. On ____, the Claimant sustained an injury compensable under the Texas Workers' Compensation Act.
2. At the time of the Claimant's compensable injury, Great American Alliance Insurance Company (Carrier) provided workers' compensation coverage and is responsible for paying for the Claimant's healthcare for the compensable injury.
3. The Claimant suffered from compression of the ulnar nerve at Guyon's canal in his right wrist.
4. The Claimant was treated with injections, decompressive surgery, and a work hardening program.
5. The decompressive surgery relieved the Claimant's numbness caused by compression of the ulnar nerve in his right wrist.
6. The Claimant continues to suffer from pain.
7. The Claimant's current pain results from Kienbock's disease, a condition in which there is a lack of blood supply to the lunate bone in the wrist resulting in an aseptic necrosis of the lunate bone.
8. The Claimant's treating physician referred him to Shahid Rashid, M.D., (Provider) for treatment of chronic pain.
9. The Provider recommended a 30-session chronic pain management program.
10. The Claimant's Kienbock's disease and the work injury are unrelated.
11. The chronic pain management interdisciplinary team included the Claimant, the Provider, Margarita Olivarez, LPC-Intern, and a certified medical assistant.
12. The interdisciplinary team did not include a psychologist.
13. The Carrier denied preauthorization of the requested 30-session chronic pain management program.

14. After the Carrier denied preauthorization, the Provider sought medical dispute resolution with the Texas Workers' Compensation Commission (TWCC).
15. After TWCC's designee, an Independent Review Organization, granted preauthorization, the Carrier timely appealed that decision.
16. TWCC sent notice of hearing to the parties on December 10, 2004. The notice informed the parties of the matter to be determined; the right to appear and be represented by counsel; the date, time, and location of the hearing; and cited to the legal statutes and rules involved.
17. The hearing convened January 27, 2005, before Michael J. Borkland, Administrative Law Judge. The Carrier was represented by Steven M. Tipton, attorney. The Provider appeared *pro se* through Margarita Olivarez, LPC-Intern.

IV. CONCLUSIONS OF LAW

1. The Texas Workers' Compensation Commission has jurisdiction related to this matter pursuant to TEX. LABOR CODE ANN. § 413.031.
2. 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. § 413.031 and TEX. GOV'T CODE ANN. ch. 2003.
3. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and the Commission's rules, 28 TEX. ADMIN. CODE (TAC) § 133.308.
4. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
5. The Carrier had the burden of proof in this proceeding. 28 TAC § 148.21(h).
6. The requested 30-session chronic pain management program is not medically necessary or reasonably required for the proper treatment of the Claimant. TEX. LABOR CODE ANN. §§ 401.011(19) and 408.021.
7. For a carrier to be liable to reimburse a provider for chronic pain management, the service must be preauthorized. 28 TAC § 134.600(h).
8. The Provider's chronic pain management program did not meet the requirements of 28 TAC § 134.202(e)(5).
9. The Carrier's appeal is granted, and the Carrier's denial of the requested treatment is affirmed.

ORDER

It is ORDERED that the request of Shahid Rashid, M.D., for preauthorization of a 30-session chronic pain management program for the Claimant is denied.

SIGNED February 8, 2005.

**MICHAEL J. BORKLAND
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**