

**DOCKET NO. 453-05-5534.M2
TWCC FILE NO. M2-05-1035-01**

—,		§	BEFORE THE STATE OFFICE
	Petitioner	§	
		§	
VS.		§	OF
		§	
TPS JOINT SELF-INSURED FUNDS,		§	
	Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

___ (Claimant) appealed an Independent Review Organization (IRO) decision denying preauthorization of a lumbar epidural steroid injection (ESI). This decision concludes that requested service is 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 June 28, 2005, 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. Claimant appeared by phone with the assistance of Juan Mireles from the Commission's ombudsman office. Carrier, TPS Joint Self-Insured Funds, appeared and was represented by Robert F. Josey. The record closed the same day.

II. DISCUSSION

A. Background

The Claimant is a 73-year-old female who injured her knee and back, on the job, on ___, when she was hugging some children on the school bus she drove. One of the children accidentally

tripped her and two of the other children fell on her legs. As a result of the fall, Claimant testified she received back and knee injuries. In May of 1995, Claimant had surgery to address meniscal tears. Post-operatively, Claimant complained of low back pain. A lumbar MRI obtained in August of 1995 revealed degenerative disc changes but no nerve root compression. The peer reviewing doctor, James Hood, M.D., concluded that on ____, the date of injury, Claimant sustained a right knee injury but not an injury to her lower back. Dr. Hood also stated that the treatment of the low back, right radicular, and left knee symptoms was unrelated to her compensable injury of ____, based on the reports he had read. Claimant and her treating doctor, Gary L. Heath, M.D., disagree with that opinion.

Claimant made the request for preauthorization of the epidural steroid injections. The Carrier denied the requests as did the IRO.

B. Medical Necessity of the Procedures

This is a complicated case because the medical records from the date of injury to the present are somewhat limited. Claimant makes a compelling case that epidural steroid injections (ESIs) to her lumbar spine have provided her with significant pain relief, enabling her to lead a more normal life. She testified that the injections she has received in the past provided relief for six to seven months, and that she received these injections on a regular basis up until July 27, 2001, when she moved to Florida. While in Florida, she received trigger point injections and Duragesic patches, but those were not as effective as the ESIs provided by received from Dr. Avia. Now that she has returned to Texas, she again would like to restart the ESIs.

Claimant had the burden of proof, and the ALJ finds that she has satisfied that burden. The ALJ finds that Claimant has easily shown that she gets significant pain relief from the ESIs. Although there are no doctor notes documenting the relief provided immediately after those injections, the ALJ finds Claimant very persuasive in this regard. The Carrier made a possibly-valid point about the lack of causal link between the back pain and work injury. But the limited, semi-

contemporaneous medical record from Pablo Vazquez-Seoane, M.D., dated August 28, 1995, and even the August 1995 lumbar MRI, referenced by Dr. Hood in his March 14, 2005 report, but not contained in the record, suggests that at least in early 1995, Claimant was experiencing new lumbar back pain not attributable to another cause. This, combined with Claimant's own testimony about the work accident causing her back pain, is enough to establish that causal connection with the limited record the ALJ has before him. Consequently, the ALJ finds that Claimant has established the medical necessity of the ESI injection at the L4-L5 level.

III. FINDINGS OF FACT

1. ____, Claimant, suffered a compensable injury on ____, when she fell down as school children were giving her hugs.
2. As a result of that injury, Claimant suffered meniscal tears to her right knee and lumbar injury and pain to her back.
3. An August 1995 MRI of Claimant's back showed degenerative disc changes at the L4-L5 level and L5-S1 level and a suggestion of disc herniation at the L4-L5 level on the left.
4. Claimant requested from Carrier, TPS Joint Self-Insured Funds, preauthorization of epidural steroid injections (ESIs) for treatment of L4 radicular pain.
5. Carrier denied that request and Claimant timely appealed that decision.
6. On April 6, 2005, an independent review organization report denied Claimant's preauthorization request.
7. Claimant timely requested a hearing before the State Office of Administrative Hearings, seeking preauthorization of the requested services.
8. A hearing was conducted on June 28, 2005.
9. Provider and Carrier appeared at the hearing.
10. Claimant was able to show that she had some degenerative disc changes to her lumbar spine as a result of her work injury.

11. In the past, ESIs to Claimant's L4-L5 area have relieved most of her lumbar pain for six to seven months, giving her ability to function more normally in the performance of activities of daily living.
12. Another ESI to the L4-L5 area is reasonably required by the nature of the Claimant's injury.

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. An ESI is medically necessary to address Claimant's compensable back pain. TEX. LABOR CODE ANN. §§ 401.011(19) and 408.021.
4. The Carrier should preauthorize and pay for the requested ESI.

ORDER

IT IS, THEREFORE, ORDERED that the L4-L5 epidural steroid injection requested by Claimant is hereby, authorized.

SIGNED July 14, 2005.

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