

**DOCKET NO. 453-05-7320.M2
MDR NO. M2-05-1513-01**

**CONTINENTAL CASUALTY CO.,
PETITIONER**
V.
—,
RESPONDENT

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Continental Casualty Co. (Carrier) challenges the decision of an Independent Review Organization (IRO) granting preauthorization of a cervical CT scan at C1-T1 and a lumbar CT scan at L1-S1 for workers' compensation insurance claimant, __ (Claimant). The IRO found that the requested procedures were medically necessary. This decision finds that, based on the evidence presented during the hearing, the requested procedures should not be preauthorized.

I. NOTICE AND PROCEDURAL HISTORY

Administrative Law Judge (ALJ) Tommy L. Broyles held the hearing on this matter on September 14, 2005. Both Carrier and Claimant were represented at the hearing. Proper notice of the hearing was provided as set out in the findings of fact and conclusions of law.

II. DISCUSSION

The evidence reveals that, in __, Claimant suffered a compensable injury to his neck and back. He was provided with conservative care including epidural steroid injections, analgesics, and a work conditioning program but did not receive relief from his pain. In 1997, Claimant underwent a laminectomy with limited pain relief for six months. Claimant continues to have chronic neck and back pain. Previous imaging includes MRIs in 1995 and 1996 and two myelograms with post CT scans in 2000 and 2002. The 2002 myelogram revealed a 2-mm bulging disc in Claimant's low back and some compression of the L-5 nerve root at the L4-L5 level. Cervical X-rays were also performed and they revealed anterior osteophytes at C5-6. The requested procedures would be used to assess whether and where spinal surgery should be performed.

Testifying on behalf of Claimant, Jacob Rosenstein, M.D., opined that a lumbar myelogram, requested in Docket 453-05-8843.M2 was the most important imaging study needed. He stated that if the lumbar myelogram was ordered in that docket, the lumbar CT scan requested in this docket would be unnecessary. Dr. Rosenstein further testified that he is no longer seeking a cervical CT scan, preferring instead to focus on the lumbar region.

III. ALJ's DECISION

In Docket No. 453-05-8843.M2, Claimant's request for a lumbar myelogram was authorized. Given that decision and Dr. Rosenstein's testimony, the ALJ finds that the lumbar CT scan sought in this docket is not medically necessary. Further, the ALJ notes that Dr. Rosenstein withdrew the request for a cervical CT scan.

IV. FINDINGS OF FACT

1. On __, __ (Claimant) suffered a compensable injury to his lower back.
2. At the time of Claimant's injury, his employer had workers' compensation insurance through Continental Casualty Co. (Carrier).
3. Claimant sought preauthorization for lumbar and cervical CT scans.
4. Carrier denied the requests for preauthorization.
5. Claimant requested medical dispute resolution at the Texas Workers' Compensation Commission, which referred the matter to an Independent Review Organization (IRO).
6. The IRO found that the lumbar and cervical CT scans should be preauthorized.
7. Carrier timely requested a hearing before the State Office of Administrative Hearings (SOAH).
8. Notice of the SOAH hearing was sent to the parties on June 24, 2005. The notice informed the parties of the date, time, and location of the hearing; the matters to be considered; the legal authority under which the hearing would be held; and the statutory provisions applicable to the matters to be considered.
9. The SOAH hearing convened and closed on September 14, 2005. Claimant and Carrier appeared and participated in the hearing.

10. In Docket No. 453-05-8843.M2, Claimant's request for a lumbar myelogram was authorized.
11. A lumbar CT scan would provide similar information as a lumbar myelogram, so both are not medically necessary for treatment of Claimant's compensable injury.
12. The lumbar myelogram is preferred by Claimant's treating physician over the CT scan.
13. The lumbar CT scan is not medically necessary treatment for Claimant's compensable injury.
14. On behalf of Claimant, Dr. Rosenstein withdrew the request for a cervical CT scan.

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(k) 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. §§ 2001.051 and 2001.052.
3. As the Petitioner, Carrier has the burden of proof in this matter. 28 TEX. ADMIN. CODE § 148.14(a).
4. The evidence established that the requested lumbar CT scan is not medically necessary treatment for Claimant's compensable injury. TEX. LAB. CODE ANN. § 408.021.
5. The requested preauthorization of a lumbar CT scan should not be granted. TEX. LAB. CODE ANN. § 408.021.

ORDER

IT IS ORDERED that the request submitted by Claimant ___ for preauthorization of a lumbar CT scan is denied. Claimant withdrew his request for a cervical CT scan so that request is dismissed.

Signed this 10th day of October 2005.

**TOMMY L. BROYLES
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**