

**DOCKET NO. 453-05-7331.M2
MRD NO. M2-05-1329-01**

—,

Petitioner

v.

**FACILITY INSURANCE
CORPORATION,**

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

___ (Claimant) requested a hearing on the decision of the Independent Review Organization (IRO)¹ denying preauthorization for trigger point injections and a psoas compartment block. After considering the evidence and arguments presented, the Administrative Law Judge (ALJ) concludes that Claimant has failed to show by a preponderance of the evidence that the requested treatments are medically necessary to treat her compensable injury. Accordingly, the ALJ finds that the requested treatments should not be preauthorized.

I. Jurisdiction, Notice, and Procedural History

There were no contested issues regarding jurisdiction or notice, and those matters are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

Claimant worked as a nurse aide and suffered a work-related injury to her back in 1991, while picking up a patient. Since that time, Claimant has received extensive treatment, including surgery, trigger point injections, therapeutic treatments, and medication for her injury. Currently, Claimant has a morphine pump installed in her lower back which provides for regular release of morphine to help limit the pain from her injury.

On January 20, 2005, Claimant's treating physician, A.T. Carrasco, M.D., requested preauthorization for a left psoas compartment block and trigger point injections. Facility Insurance

¹ The IRO is the statutory designee of the Medical Review Division of the Texas Workers' Compensation Commission (Commission) for purposes of resolving this preauthorization dispute.

Corporation (Carrier) denied the preauthorization request. Dr. Carrasco requested reconsideration and Carrier maintained its denial. Dr. Carrasco then requested medical dispute resolution through the Commission. The matter was referred to an IRO designated by the Commission for the review process. The IRO determined that the requested treatments were not medically necessary and should not be authorized. Claimant then requested a hearing on the IRO decision, and the matter was transferred to the State Office of Administrative Hearings (SOAH). The hearing convened at SOAH's hearings facility on August 25, 2005, before ALJ Craig R. Bennett. Carrier was represented at the hearing by attorney James Sheffield, and Claimant appeared by telephone and was assisted at the hearing by ombudsman Anthony Walker. The record closed that same day.

II. Discussion and Analysis

The issue in this case is whether two separate treatments - trigger point injections and a psoas compartment block - are medically necessary to treat Claimant's work-related injury. After considering the evidence presented, the ALJ concludes that Claimant has not shown that they are necessary.

At the hearing, Carrier presented the testimony of Suzanne Novak, M.D., Ph.D., who is board-certified in anesthesiology and pain management and who is currently on the faculty of the University of Texas Pharmacy School, where she specializes in studying chronic pain treatment. Dr. Novak noted that Claimant's condition, resulting from her 1991 injury, was clearly one involving long term pain for which little could be done other than to assist her in the management of such pain. In her testimony, Dr. Novak explained that trigger point injections provide little long term benefit and are not considered an appropriate course of care for chronic pain management. Dr. Novak cited to numerous standard treatment guidelines for long term pain management, noting that one of the most preeminent treatment guidelines specifically provides that trigger point injections are "not recommended" for chronic pain.

Similarly, Dr. Novak noted that a psoas compartment block is a rare procedure ordinarily used in surgery as a tool for localized pain control and is not used as a treatment for chronic pain management, except in limited circumstances. While Dr. Novak conceded that there were some limited situations where a psoas compartment block might be used in chronic pain management, she simply felt that there were no indications for its use in regard to Claimant's specific condition. Specifically, she testified that the medical records did not show that Claimant met any of the limited

exceptions or had any indications for the use of a psoas compartment block for treatment of chronic pain.

In response, Claimant did not present any expert testimony at the hearing, but rather relied on her own testimony and the medical documents in the record. Claimant testified that past trigger point injections have provided some limited pain relief to her, usually lasting no more than a week or two. She testified that she has tried therapeutic exercises and other conservative treatments, but has found nothing that has provided long term relief from her pain. She indicated that, while she was not sure what would help her, she needed to continue to try additional treatments to find something to give her pain relief. Moreover, she noted that the Commission guidelines do not require that treatment provide long term relief, but simply provide relief from the effects of her injury. She believed that both of the requested treatments provide the opportunity for that.

Ultimately, the ALJ finds Dr. Novak's testimony to be credible and persuasive. Further, Claimant has presented no controverting expert testimony. Although the medical documents show that Claimant's physician believes the treatments will be beneficial, he offers little justification in his treatment notes or records and did not testify at the hearing. While the ALJ is sympathetic to Claimant's plight, the only credible and persuasive evidence in the record indicates that the requested treatments are not necessary for Claimant's current condition, which is chronic pain.

In regard to the trigger point injections, Claimant is right that the applicable statute does not require that necessary treatment provide long term relief. However, the statute does require that treatment be efficient and cost-effective. Dr. Novak indicated that conservative treatments like exercises, heat packs, and cold packs are as successful or more successful than trigger point injections in providing relief for chronic pain, and do not have the same potential negative side effects. Therefore, under the applicable law, those safer and less costly treatments are a more appropriate alternative.

As for the psoas compartment block, the ALJ also finds insufficient evidence in the record to conclude it is a medically necessary and appropriate treatment for Claimant. In light of Dr. Novak's persuasive testimony, it is incumbent on Claimant to offer persuasive evidence to the contrary, showing the need for the psoas compartment block. However, Claimant has not done that.

Accordingly, the ALJ finds that the evidentiary record does not establish the medical

necessity of the requested treatments, and the preauthorization request for these treatments should be denied. In support of this determination, the ALJ makes the following findings of fact and conclusions of law.

III. Findings of Fact

1. ____ (Claimant) worked as a nurse aide and suffered a work-related injury to her back in 1991, while picking up a patient.
2. At the time of Claimant's compensable injury, Facility Insurance Corporation (Carrier) was the workers' compensation insurer for Claimant's employer.
3. Since her injury, Claimant has received extensive treatment, including surgery, trigger point injections, therapeutic treatments, and medication for her injury.
4. Currently, Claimant has a morphine pump installed in her lower back which provides for regular release of morphine to help limit the pain from her injury.
5. On January 20, 2005, Claimant's treating physician, A.T. Carrasco, M.D., requested preauthorization for a left psoas compartment block and trigger point injections.
6. Carrier denied the preauthorization request.
7. Dr. Carrasco requested reconsideration and Carrier maintained its denial.
8. Dr. Carrasco then requested medical dispute resolution through the Commission.
9. The matter was referred to an Independent Review Organization (IRO) designated by the Texas Workers' Compensation Commission (Commission) for the review process, and the IRO determined that the requested treatments were not medically necessary and should not be authorized.
10. Claimant then requested a hearing on the IRO decision, and the matter was transferred to the State Office of Administrative Hearings (SOAH).
11. Notice of the hearing was sent on June 30, 2005, and contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
12. The hearing convened at SOAH's hearings facility on August 25, 2005, before ALJ Craig R. Bennett. Carrier was represented at the hearing by attorney James Sheffield, and Claimant appeared by telephone and was assisted at the hearing by ombudsman Anthony Walker. The record closed that same day.
13. Trigger point injections provide little long term benefit and are not an appropriate course of

care for chronic pain management.

14. A psoas compartment block is a rare procedure ordinarily used in surgery as a tool for localized pain control and is not used as a treatment for chronic pain management, except in limited circumstances.
15. The record evidence in this case does not show sufficient indications for the use of a psoas compartment block for Claimant's condition.

IV. 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 § 413.031(k) of the Act 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.
3. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. Claimant has the burden of proof. 28 TEX. ADMIN. CODE §§ 148.14(a) and 133.308(w).
5. Claimant failed to prove, by a preponderance of the evidence, that the requested trigger point injections and psoas compartment block are medically necessary treatment for Claimant's compensable injury.
6. The request for preauthorization should be denied.

ORDER

IT IS, THEREFORE, ORDERED that preauthorization for trigger point injections and a psoas compartment block is denied.

SIGNED September 6, 2005.

**CRAIG R. BENNETT
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**