

— PETITIONER

V.

AMERICAN HOME ASSURANCE  
COMPANY,  
RESPONDENT

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**DECISION AND ORDER**

\_\_\_, a workers' compensation insurance claimant (Claimant), challenged the decision of an Independent Review Organization (IRO) denying preauthorization of four individual psychotherapy sessions and eight biofeedback sessions for chronic pain management. The IRO found that the requested procedures were not 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 November 7, 2005, and the record closed that same day. At the hearing, Carrier was represented by Steve Tipton and Claimant was assisted by Juan Mireles. Proper notice of the hearing was provided as set out in the findings of fact and conclusions of law.

**II. BACKGROUND**

The evidence reveals that, on \_\_\_, Claimant suffered a compensable injury when her right leg buckled underneath her and she fell on her knee. She also complained of low back pain, which appears to have worsened over time, and headaches. She was provided with a variety of medical care including physical therapy; bed rest; numerous medications including anti-inflammatories, muscle

relaxants, and analgesics; epidural steroid injections; and two surgeries to her right knee. The medical care, including surgery, has failed to provide long-term pain relief. Claimant alleges to have chronic pain disorder and is seeking psychotherapy and biofeedback to address this issue.

### **III. DISCUSSION**

Claimant testified to the extensive treatment she has received for her injuries. Some of the treatment, such as the trigger point injections, has relieved the pain for a short period. The therapy helped her to walk, although she continues to walk with a cane and can not reach or bend. Claimant continues to have a burning pain from her lower back all the way down to her foot. She also experiences a sharp pain in her lower back and constant headaches. Claimant is taking several medications for pain relief and for depression.

Claimant did not call any medical experts as witnesses. She stated that Drs. Chowdhury and Lakshmikanth ordered the psychotherapy and biofeedback. Mr. Mireles argued on Claimant's behalf that the disputed treatments are necessary to treat her headaches.

Carrier relied on the medical records for its contention that the requested treatments are not evidence-based medicine. According to Carrier, there are no studies supporting the use of the disputed treatments for chronic pain or for back injuries. According to the ODG Integrated Treatment/Disability Guidelines (ODG), "[T]he available evidence does not clearly show whether biofeedback's effects exceeded nonspecific placebo effects." For this reason, ODG does not recommend the use of biofeedback. ODG states that the efficacy of behavior treatment or psychotherapy to address back pain is under study.

Carrier points out that Claimant's original treating doctor, Bruce Conway, M.D., certified that Claimant had no permanent impairment resulting from the compensable injury as of

December 19, 2001. Similarly, the designated doctor, Christopher E. Olson, M.D., found that on December 13, 2002, Claimant had 0% impairment for chronic pain and back injury and only 3% whole person impairment related to the total medial menisectomy (knee surgery). For these reasons, Carrier argues the request for preauthorization of the disputed treatments should be denied.

#### **IV. ALJ's DECISION**

Based on a review of the record, the ALJ concludes that the requested procedures are not medically necessary for the compensable injury. The great weight of expert medical opinion offered into the record overwhelmingly supports this conclusion. The medical opinions include:

- Neal Blauzvern, D.O. (peer review): found there was complete resolution from the work injury on or before \_\_\_\_, and that none of the lumbar or bilateral lower extremity complaints were related to the compensable injury;
- Bruce Conway, M.D. (treating doctor): determined there was no permanent impairment resulting from the compensable injury as of December 19, 2001;
- John Oberniller, M.D.(peer review): opined the lumbar spine pain was not related to the compensable injury and that no additional treatments of any kind were needed;
- Corey D. Fox ( psychologist) - stated that there was no proven efficacy of the disputed services in treating the symptoms;
- A. Brylowski (psychologist/neurologist) - noted there are no studies, evidenced-based standards, or randomized clinical trials supporting the use of unimodal psychotherapeutic techniques or biofeedback in producing reliable functional improvements with this type of chronic pain syndrome; and
- Christopher Olson (designated doctor) - noted that Claimant was 4 foot 11 inches and weighed 221 pounds; found no impairment for chronic pain and

back pain and only 3% whole-body impairment for knee injury.

The breadth of medical opinions agree that the disputed services are not medically reasonable treatment for the compensable injury. Thus, the ALJ concludes Claimant failed to meet her burden and that the requested procedures should not be preauthorized.

## **V. FINDINGS OF FACT**

1. On\_\_\_, Claimant suffered a compensable injury when her right leg buckled underneath her and she fell on her knee.
2. In addition to the knee, Claimant also complained of low back pain, which appears to have worsened over time, and headaches.
3. At the time of Claimant's injury, her workers' compensation insurance was provided by American Home Assurance Company (Carrier).
4. Claimant was provided with a variety of medical care including physical therapy; bed rest; numerous medications including anti-inflammatories, muscle relaxants and analgesics; epidural steroid injections; and two surgeries to her knee.
5. Claimant alleges to have chronic pain disorder and is seeking psychotherapy and biofeedback to address this issue.
6. Carrier denied the request for preauthorization.
7. Claimant requested medical dispute resolution at the Texas Workers' Compensation Commission, which referred the matter to an Independent Review Organization (IRO).
8. The IRO denied preauthorization for the disputed treatments.
9. Claimant timely requested a hearing before the State Office of Administrative Hearings (SOAH).
10. Notice of the SOAH hearing was sent to the parties on July 18, 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.

11. The SOAH hearing convened and closed on November 7, 2005. Claimant and Carrier appeared and participated in the hearing.
12. There are no studies, evidenced-based standards, or randomized clinical trials supporting the use of unimodal psychotherapeutic techniques or biofeedback in producing reliable functional improvements with this type of chronic pain syndrome.
13. The compensable injury was resolved on or before June 14, 2002.
14. None of the lumbar or bilateral lower extremity complaints or chronic pain management complaints are related to the compensable injury.
15. The disputed services are not medically necessary treatment for Claimant's compensable injury.

## **VI. 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, Claimant has the burden of proof in this matter. 28 TEX. ADMIN. CODE §148.14(a).
4. Claimant failed to establish that the disputed services are medically necessary treatment for Claimant's compensable injury. TEX. LAB. CODE ANN. § 408.021.
5. The requested preauthorization of four individual psychotherapy sessions and eight biofeedback sessions for chronic pain management should be denied. TEX. LAB. CODE ANN. § 408.021.

**ORDER**

**IT IS ORDERED** that the request submitted by Claimant for preauthorization of four individual psychotherapy sessions and eight biofeedback sessions is denied.

**SIGNED December 5, 2005.**

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