

**SOAH DOCKET NO. 453-05-9434.M2
MDR Tracking No. M2-05-1989-01**

—, Petitioner	§	BEFORE THE STATE OFFICE
	§	
	§	
V.	§	
	§	OF
ZURICH AMERICAN INSURANCE	§	
COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

I. INTRODUCTION

___ (Claimant) challenges a decision of an independent review organization (IRO) on behalf of the Texas Workers' Compensation Commission's (Commission) Medical Review Division (MRD),¹ regarding Claimant's request for preauthorization for eight additional sessions of chronic pain management. The IRO found that Carrier's denial of Claimant's request should be upheld.

The only issue is whether eight additional sessions of chronic pain management for Claimant should be preauthorized.²

As set out below, the Administrative Law Judge (ALJ) finds that Claimant's request for preauthorization for eight additional sessions of chronic pain management should be denied.

¹ Effective September 1, 2005, the functions of the Commission were transferred to the Texas Department of Insurance's Division of Workers' Compensation.

² It is questionable whether this issue is actually disputed because, at the hearing, Claimant stated that eight additional sessions of chronic pain management "is not going to do me any good." Instead, he asserted that, because it had been five months since his last pain management session, what he really needed is a complete 28-day session of chronic pain management.

II. FINDINGS OF FACT

1. On ____ (Claimant) sustained a work-related injury to his lower back as a result of his work activities (compensable injury).
2. On the date of injury, Claimant's employer was _____, and its workers' compensation insurance carrier was Zurich American Insurance Company (Carrier).
3. As a result of the compensable injury, Claimant suffered low back pain and depression associated with chronic pain.
4. After having already provided Claimant with 20 sessions, Provider Tom G. Mayer, M. D., sought preauthorization from Carrier for eight additional sessions of chronic pain management for Claimant.
5. Carrier sent an explanation of benefits to Provider denying the requested preauthorization for the following reason: "[F]our weeks is optimal time for an interdisciplinary chronic pain program to be conducted; therefore, the eight additional requested sessions at the chronic pain program [are] not medically necessary."
6. On June 14, 2005, Claimant filed a request for medical dispute resolution with the Texas Workers' Compensation Commission (Commission).
7. An independent review organization (IRO) reviewed the medical dispute and found that Carrier's denial of preauthorization for Claimant's request for eight additional sessions of chronic pain management should be upheld because the requested services are medically unnecessary.
8. After the IRO decision was issued, Claimant requested a contested-case hearing by a State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ).
9. Notice of a contested-case hearing concerning the dispute was mailed on September 14, 2005, to Carrier and Claimant. The notice informed the parties of the time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and the matters to be considered.
10. On October 5, 2005, Carol Wood, a SOAH ALJ, held a contested-case hearing concerning the dispute at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. The hearing concluded, and the record closed that day.
11. Claimant appeared and was assisted at the hearing by Commission Ombudsman Juan Mireles.
12. Carrier appeared at the hearing through its attorney, Steven M. Tipton.

13. Claimant acknowledged at the hearing that the requested eight additional sessions of chronic pain management would not provide him with the relief that he desires from his chronic pain.
14. Eight additional sessions of chronic pain management will not benefit Claimant's depression and psychological condition.

III. CONCLUSIONS OF LAW

1. SOAH 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. (Labor Code) §§ 402.073(b) and 413.031(k) (Vernon Supp. 2004-2005) and TEX. GOV'T CODE ANN. (Gov't Code) ch. 2003 (Vernon 2000).
2. Adequate and timely notice of the hearing was provided in accordance with Gov't Code §§ 2001.051 and 2001.052.
3. Based on the above Findings of Fact and Gov't Code § 2003.050 (a) and (b), 1 TEX. ADMIN. CODE (TAC) § 155.41(b) (2005), and 28 TAC § 148.14(a) (2005), Claimant has the burden of proof in this case.
4. An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed that cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. Labor Code § 408.021 (a) (Vernon 1996).
5. Pursuant to Labor Code §413.014, for a carrier to be liable for certain services and supplies, the service must be preauthorized by the carrier or by order of the Commission.
6. Preauthorization is required for chronic pain management. 28 TAC §134.600.
7. Based on the above Findings of Fact and Conclusions of Law, the requested eight additional sessions of chronic pain management are not medically necessary.

ORDER

THEREFORE, IT IS ORDERED that the request of ___ for preauthorization for eight additional sessions of chronic pain management is **DENIED**.

SIGNED November 3, 2005.

**CAROL WOOD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**