

**SOAH DOCKET NO. 454-06-0165.P1
DWC NO. 1**

FEDERATED MUTUAL INSURANCE COMPANY,	§	BEFORE THE STATE OFFICE
	§	
	§	
V.	§	
	§	
	§	OF
TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION, AND LYDIA NJAMFA, M.D.	§	
	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

I. INTRODUCTION

Federated Mutual Insurance Company (Carrier) requested a hearing to contest a medical interlocutory order issued by the Texas Department of Insurance, Division of Workers' Compensation (Division) regarding medical services for (Claimant). Lydia Njamfa, M.D., requested certain treatments for Claimant, and Carrier denied the medical necessity of such treatments. The dispute was referred to an independent doctor for a Prospective Review Medical Examination (PRME). The PRME doctor found that the requested treatments were reasonably medically necessary to treat the Claimant's compensable injury, and the Division ordered Carrier liable for reimbursing for the services.

A hearing was conducted at which it was established that the only dispute in this case is whether the requested treatments were reasonably necessary to treat the Claimant's compensable injury. After considering the evidence and arguments presented, the undersigned Administrative Law Judge (ALJ) concludes that Carrier has failed to show that the treatments in issue were not medically necessary for Claimant's compensable injury. Therefore, because Carrier has not met its burden of proof, the ALJ upholds the interlocutory order requiring Carrier to reimburse for the treatments.

II. DISCUSSION AND ANALYSIS

This case involves a compensable injury to Claimant that occurred in 1 , when Claimant fell from a tanker truck and injured his lower back. Claimant received significant treatment after that, including surgery and ongoing treatment with prescription pain medication. In

Claimant was to begin a drug detoxification program to wean him off his dependence on the pain medications he had been taking for his compensable injury. However, at the drug treatment center, Claimant was injured in an altercation. He stopped the detoxification program and was seen by other physicians for follow-up treatment after the altercation. Claimant then sued the drug treatment program for negligence in regard to the altercation that resulted in injury to him.

In May 2005, when Claimant still had ongoing pain, Dr. Lydia Njamfa requested approval for three office visits over the course of 12 weeks (*i.e.*, roughly one visit per month) and for various pain medications for Claimant. The Carrier denied the treatment, and Dr. Njamfa requested PRME. The Division referred the matter to a PRME doctor, who found the treatment to be medically reasonably necessary for Claimant's compensable injury. Carrier then requested a hearing on the matter, and the case was referred to the State Office of Administrative Hearings. At the hearing, both Carrier and the Division relied upon the medical records introduced into evidence, and did not present any medical expert testimony.

After considering the evidence presented, the ALJ concludes that Carrier has failed to show that the treatments in issue were not reasonably medically necessary for Claimant's compensable injury. Carrier's argument rests upon its assertion that the treatments in issue were solely for Claimant's intervening injury at the drug treatment center and, therefore, were not related to the compensable injury. Carrier may well be correct, but the evidence in the record does not establish this. Rather, the evidence shows simply that Claimant was still suffering from ongoing pain and needed prescription medications for treatment of his compensable injury in 1 , thus resulting in the attempted drug detoxification. That attempt was interrupted due to the altercation at the drug treatment center, and Claimant was apparently not weaned off pain medications.

From the record, it appears that some of Claimant's problems immediately after the altercation at the drug treatment center were the result of that intervening injury. However, because Claimant was never weaned off pain medications for his original compensable injury, it is unclear whether his continued need for prescription pain medication was simply because the detoxification program was stopped or because he was injured during the altercation. The evidence in the record does not give the ALJ any clear guidance on whether Claimant continued to need pain medication for his compensable injury when the drug detoxification program was stopped (or even had it continued and been unsuccessful).¹ Because of Claimant's continued use of pain medications all the way up to his entrance into the drug treatment program, the ALJ is unable to conclude that he no longer needed any medications after that point.

Consequently, without any clear medical evidence and testimony regarding Claimant's condition, the ALJ cannot conclude that Claimant did not continue to need medication in 2005 for his compensable injury, or that such medications were related only to injuries Claimant sustained as a result of the altercation at the drug treatment center. Therefore, Carrier has failed to meet its burden of proof in this case to show that the treatments in issue were not reasonably medically necessary for Claimant's compensable injury. In support of this decision, the ALJ makes the following findings of fact and conclusions of law.

III. FINDINGS OF FACT

1. In 1998, Claimant suffered a compensable injury when he fell from a tanker truck and injured his lower back.
2. On the date of his injury, Federated Mutual Insurance Company (Carrier) was the workers' compensation insurance carrier for Claimant's employer.
3. Claimant received significant treatment after that, including surgery and ongoing treatment with prescription pain medication for chronic pain.

¹ Dr. High Ratliff indicates, in his report of May 10, 2005, that Claimant "continues to need relief for his chronic pain, but he also is in need of detoxification from the potent medications that he is on." Carrier Ex. F, at 15.

4. In _____, Claimant was to begin a drug detoxification program to wean him off his dependence on the medications he was taking for his compensable injury.
5. At the drug treatment center, Claimant was injured in an altercation.
6. Claimant stopped the detoxification program and was seen by other physicians for follow-up treatment after the altercation.
7. In May 2005, when Claimant still had ongoing pain, Dr. Lydia Njamfa requested approval for three office visits over the course of 12 weeks (*i.e.*, roughly one visit per month) and for the following medications (for a period of 90 days) for Claimant: (1) Oxycontin; (2) Oxuir; (3) Baclofen; (4) Valium; and (5) Trazadone.
8. Carrier denied the requested treatment.
9. On July 20, 2005, Dr. Njamfa requested a prospective review of medical care not requiring preauthorization (PRME), seeking approval for the requested treatment.
10. The Texas Department of Insurance, Division of Workers' Compensation (Division) assigned the matter to a PRME doctor in accordance with 28 TEX. ADMIN. CODE §134.650.
11. On August 26, 2005, the PRME doctor issued a decision concluding that the proposed services were medically necessary to treat the compensable injury.
12. On September 6, 2005, the Division issued an interlocutory order, based on the PRME doctor's review and under the authority of TEX. LABOR CODE ANN. §413.055(a), requiring Carrier to reimburse for the proposed services.
13. On September 12, 2005, Carrier requested a hearing by the State Office of Administrative Hearings (SOAH) to appeal the interlocutory order.
14. On December 6, 2005, the Division sent its first notice of hearing in this matter to all parties.
15. All parties received adequate notice of not less than 10 days 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 a short, plain statement of the matters asserted.
16. On April 17, 2007, SOAH Administrative Law Judge Craig R. Bennett held a contested case hearing concerning the dispute at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. Carrier appeared at the hearing through its attorney, William Weldon. The Division appeared at the hearing through its attorney, E. Renee Crenshaw. Dr. Njamfa did not participate. The record closed that same day.

IV. 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. TEX. LAB. CODE ANN. §§ 402.073(b) and 413.055(c) and TEX. GOV'T. CODE ANN. ch. 2003.
2. Notice of the hearing was proper and timely. TEX. GOV'T. CODE ANN. §§ 2001.051 and 2001.052.
3. 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. TEX. LAB. CODE ANN. § 408.021(a).
4. Carrier has the burden of proving by a preponderance of the evidence that the proposed services are not reasonably medically necessary to treat Claimant's compensable injury. 1 TEX. ADMIN. CODE § 155.41(b); 28 TEX. ADMIN. CODE § 148.14(a).
5. Carrier has failed to show that the treatments in issue—three office visits in a 12-week period and the requested medications for pain management—were not medically necessary to treat Claimant's compensable injury.
6. Based on the above Findings of Fact and Conclusions of Law, the interlocutory order should be upheld.

ORDER

IT IS ORDERED THAT the Division's interlocutory order of September 6, 2005, in this matter is upheld.

SIGNED April 24, 2007.



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