

SOAH DOCKET NO. 454-06-1450.P1
DWC CLAIM NO.

UNIVERSITY OF TEXAS SYSTEM	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
v.	§	
	§	
TEXAS DEPARTMENT OF INSURANCE,	§	OF
DIVISION OF WORKERS'	§	
COMPENSATION and	§	
A. R. S. PRASAD, M.D.,	§	
Respondents	§	ADMINISTRATIVE HEARINGS

SUMMARY DISPOSITION DECISION AND ORDER

On December 20, 2006, The University of Texas System (Carrier) filed a Motion for Summary Disposition (Motion), challenging a medical interlocutory order (MIO) issued by the Texas Workers' Compensation Commission, now the Texas Department of Insurance, Division of Workers' Compensation (Division), requiring Carrier to reimburse A. R. S. Prasad, M.D., for one office visit per month for three months and for medications, Lortab and Flexeril, to treat an injured worker (Claimant). On January 24, 2007, the Division filed a response indicating concurrence that no genuine issue of material fact existed and requesting that the Motion be granted. Dr. Prasad did not respond to the Motion. The Administrative Law Judge grants the Motion.

On _____, Claimant sustained a compensable injury, a low back sprain, while lifting a file cabinet. After therapy, Claimant progressively improved from that injury. On _____ a non-compensable injury occurred. On July 6, 2004, Claimant was diagnosed with disc pathology at L4-5 and L5-S1 and degenerative disc disease. Robert Charles Lowry, M.D., performed a prospective review medical examination pursuant to 28 TEX. ADMIN. CODE § 134.650. Dr. Lowry examined Claimant on January 10, 2006, and issued a report providing for one office visit per month for three months and medications, Lortab and Flexeril, to treat Claimant's work-related injury. The Division issued an MIO requiring payment for the office visits and medications. Carrier appealed

the MIO but paid for the office visits and medications as required under 28 TEX. ADMIN. CODE § 134.650.¹

On May 19, 2006, a Division hearing officer determined that due to the intervening non-compensable injury there was no causal connection between the compensable injury of and Claimant's disc pathology at L4-5 and L5-S1 and his degenerative disc disease. That decision has now become final. Accordingly, the office visits and medications ordered to be paid by the MIO were not medically necessary to treat the compensable injury.

I. FINDINGS OF FACT

1. On _____ an injured worker (Claimant) suffered a low back sprain (compensable injury) while lifting a file cabinet.
2. On the date of injury, The University of Texas System (Carrier) was the workers' compensation insurance carrier for Claimant's employer.
3. On _____, a non-compensable injury occurred.
4. On July 6, 2004, Claimant was diagnosed with disc pathology at L4-5 and L5-S1 and degenerative disc disease.
5. On December 20, 2006, The University of Texas System (Carrier) filed a Motion for Summary Disposition (Motion), challenging the MIO issued by the Division.
6. Robert Charles Lowry, M.D., performed a prospective review medical examination pursuant to 28 TEX. ADMIN. CODE § 134.650.
7. Dr. Lowry examined Claimant on or about January 10, 2006, and issued a report finding that one office visit per month for three months and medications, Lortab and Flexeril, to treat Claimant's work-related injury were reasonably necessary.

¹ Carrier will seek reimbursement for overpayments from the Subsequent Injury Fund.

8. On February 6, 2006, the Texas Workers' Compensation Commission, now the Texas Department of Insurance, Division of Workers' Compensation (Division), issued a medical interlocutory order (MIO) requiring payment for the office visits and medications.
9. Carrier appealed the MIO but paid for the office visits and medications as required under 28 TEX. ADMIN. CODE § 134.650.
10. On May 19, 2006, a Division hearing officer determined there was no causal connection between the compensable injury of _____, and Claimant's disc pathology at L4-5 and L5-S1 and degenerative disc disease due to the intervening _____, non-compensable injury. That decision has now become final.
11. On January 24, 2007, the Division filed a response reflecting its concurrence that no genuine issue of material fact existed and requesting that the Motion be granted. Dr. Prasad did not respond to the Motion.

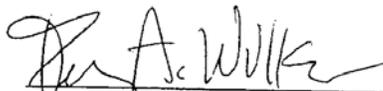
II. CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. §§402.073(b) and 413.055 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. Carrier has the burden of proof in this proceeding. TEX. LAB. CODE ANN. §413.055; and 28 TEX. ADMIN. CODE §148.14(a).
4. The Lortab and Flexeril and office visits were not medically necessary to treat the Claimant's compensable injury. TEX. LAB. CODE ANN. §408.021.
5. The disc pathology and the degenerative disc disease for which the pharmaceuticals and office visits were sought are not causally related to the Claimant's compensable injury.

ORDER

IT IS THEREFORE ORDERED that Lortab and Flexeril and office visits were not reasonably required by the nature of the Claimant's injury and that The University of Texas System is eligible for reimbursement for payments for those medications and office visits.

SIGNED February 27, 2007.



PENNY A. WILKOV
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS