

SOAH DOCKET NO. 454-06-1554.P1
TDI DWC NO.

NATIONAL FIRE INSURANCE COMPANY	§	BEFORE THE STATE OFFICE
OF HARTFORD,	§	
Petitioner	§	
v.	§	OF
	§	
TEXAS DEPARTMENT OF INSURANCE,	§	ADMINISTRATIVE HEARINGS
DIVISION OF WORKERS'	§	
COMPENSATION and DR. ROBERT	§	
H. LEGRAND,	§	
Respondent	§	
	§	

DECISION AND ORDER

I. INTRODUCTION

National Fire Insurance Company of Hartford (Carrier) challenges a medical interlocutory order (MIO) issued on February 16, 2006, by the Texas Department of Insurance's Division of Workers' Compensation (DWC) requiring Carrier to reimburse Robert Legrand, M.D., for two neurosurgical consultations over a 90-day period for treatment of . . . (Claimant) lumbar disc herniation at L4/L5, radiculopathy, and stenosis. On May 17, 2006, a DWC hearing officer determined that Claimant's compensable injury did not include his disc herniation at L4/L5, lumbar radiculopathy, or spinal stenosis. DWC does not dispute its hearing officer's determination. Because the proposed neurosurgical consultations are for treatment of Claimant's non-compensable conditions, the Administrative Law Judge (ALJ) concludes that the MIO ordering Carrier to reimburse Dr. Legrand for the neurosurgical consultations should be reversed and Carrier recover the \$203.00 it reimbursed Dr. Legrand for one consultation.

II. FINDINGS OF FACT

1. On _____ Claimant, a _____, suffered a left shoulder rotator cuff tear and lumbar strain (compensable injury) during the course and scope of his employment.
2. On the date of injury, Carrier was the workers' compensation insurance carrier for Claimant's employer.
3. By June 3, 2005, Claimant's low back pain was resolved and he denied having back problems.
4. On November 11, 2005, Claimant complained of low back pain.
5. In January 2006, Claimant began seeing Dr. Coolbaugh, a chiropractor, who referred Claimant to Dr. Legrand, a neurosurgeon, for consultation.
6. In February 2006, Dr. Legrand requested from DWC a Prospective Review Medical Examination (PRME) so that Dr. Legrand could provide two neurosurgical consultations over a 90-day period for treatment of Claimant's lumbar disc herniation at L4/L5, radiculopathy, and stenosis.
7. DWC assigned Gerald Hill, M.D., to examine Claimant and to determine whether the proposed neurosurgical evaluations were medically necessary.
8. On February 7, 2006, Dr. Hill determined that the proposed neurosurgical evaluations were medically necessary.
9. Based on Dr. Hill's PRME, DWC on February 16, 2006, issued a MIO ordering Carrier to reimburse Dr. Legrand for the neurosurgical consultations.
10. On February 22, 2006, Dr. Legrand provided Claimant one 60-minute consultation.
11. On May 17, 2006, a DWC hearing officer determined that Claimant's compensable injury did not include his disc herniation at L4/L5, lumbar radiculopathy, or spinal stenosis.
12. On August 7, 2006, Carrier reimbursed Dr. Legrand \$203.00 for the February 22, 2006, neurosurgical evaluation of Claimant.

13. On February 21, 2006, Carrier requested a hearing by a State Office of Administrative Hearings (SOAH) ALJ to appeal the MIO.
14. On November 8, 2006, SOAH ALJ Carol Wood held a prehearing conference on the matter. Carrier appeared through its attorney, Erin Hacker Shanley. DWC appeared through its attorney, Renee Crenshaw. Dr. LeGrand did not appear.
15. At the prehearing conference, DWC did not dispute that Dr. Legrand's requested neurosurgical consultations were for Claimant's non-compensable conditions.
16. At the ALJ's request, Carrier on November 15, 2006, submitted additional documents regarding this matter.
17. Carrier is entitled to recover the \$203.00 it reimbursed Dr. Legrand for the February 22, 2006, neurosurgical evaluation he provided Claimant.

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. LABOR CODE §§ 402.073(b) and 413.055(c) and TEX. GOV'T. CODE ch. 2003.
2. Based on the above Findings of Fact, Dr. Legrand's proposed neurosurgical consultations with Claimant concern Claimant's non-compensable conditions.
3. Based on the above Findings of Fact and Conclusions of Law, the proposed medical services are not medically necessary to treat Claimant's compensable injury.
4. Based on the above Findings of Fact and Conclusions of Law, DWC's MIO should be reversed.
5. Based on the above Findings of Fact and Conclusions of Law, Carrier should recover the \$203.00 it reimbursed Dr. Legrand.

ORDER

IT IS, THEREFORE, ORDERED that the MIO issued by DWC is reversed and Carrier shall recover \$203.00 from the subsequent injury fund.

SIGNED January 18, 2007.

Carol Wood

CAROL WOOD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS