SOAH DOCKET NO. 454-13-3625.M4
DWC NO.

RHD MEMORIAL MEDICAL CENTER, **Petitioner**	§	**BEFORE THE STATE OFFICE**
v.	§	**OF**
ZURICH AMERICAN INSURANCE COMPANY, **Respondent**	§	**ADMINISTRATIVE HEARINGS**

DECISION AND ORDER

RHD Memorial Medical Center (Provider) challenges the Texas Department of Insurance, Division of Workers' Compensation (DWC) Medical Fee Dispute Resolution Findings and Decision of February 8, 2013 (Decision) denying reimbursement to Provider. The Administrative Law Judge (ALJ) finds that Provider has failed to show that it is entitled to receive additional reimbursement. Therefore, the ALJ upholds the determination by DWC and orders that Zurich American Insurance Company (Carrier) is not liable to reimburse Provider for the services at issue in this proceeding.

I. PROCEDURAL HISTORY

This case arises out of the hospital admission on 2006, of an injured worker (Claimant) whose workers' compensation insurance was provided by Carrier. Claimant presented to the emergency room for post-surgical pain resulting from a prior compensable injury, and was admitted to the hospital for a period of 8 days for treatment. Provider billed Carrier $31,588.00 for the treatment. Carrier denied reimbursement on the basis that the services were not preauthorized.

After conducting medical fee dispute resolution, DWC denied Provider's request for additional reimbursement. Provider timely requested a hearing before the State Office of Administrative Hearings (SOAH) to contest the Decision. An evidentiary hearing was convened before ALJ Craig R. Bennett on September 16, 2013, at SOAH's facilities in Austin, Texas. Provider appeared and was represented by attorney P. Matthew O'Neil. Carrier appeared and was represented by attorney Steve Tipton. The record closed upon conclusion of the hearing on September 16, 2013.

II. DISCUSSION

This case involves a dispute over the hospital charges for an 8-day stay by Claimant. Carrier argues that Claimant was improperly admitted to the hospital through the emergency room, when Claimant's condition was not an emergency condition requiring emergent treatment. Carrier argues that, because Claimant's condition did not present a situation requiring emergent admission, preauthorization should have been obtained for the admission and treatment provided to Claimant. Provider disagrees, arguing that its staff attempted to obtain preauthorization, but was told by Carrier that none was needed. Therefore, Provider argues it should be reimbursed $6,090.00.[1]

The issue in this case is whether Claimant's condition was a medical emergency that required hospitalization. The applicable rules did not require preauthorization for emergent admissions. This is understandable because it is unreasonable to require preauthorization when a patient is suffering a condition that requires emergency treatment. However, at the same time, if a patient does not present with a condition requiring emergency treatment, the mere fact that the patient presented through the emergency room cannot be used as a means to avoid the normal requirement for preauthorization for non-emergent services. In such instances, the provider

[1] Provider's witness requested a larger amount, based on the hospital fee guideline reimbursement amount of $1,118 per day, for 6 days. However, Provider's request for medical fee dispute resolution identified the disputed amount as $6,090.00, and the DWC Decision also relied upon this amount in framing the scope of the dispute. Therefore, the ALJ finds that Provider's request is limited by what it previously identified as the disputed amount.

should treat the patient's emergency condition and, if none exists, the patient should be released or otherwise transferred to non-emergent care so that non-emergent treatment can be provided.

In this case, Claimant presented with pain resulting from a prior surgery. Upon examination in the emergency room, hospital admissions staff contacted Carrier and advised that Claimant had presented through the emergency room and Provider was seeking preauthorization to admit Claimant for treatment. At that time, Carrier's personnel advised the admissions staff that preauthorization was not required for emergent care. Ultimately, the record is not clear what exactly transpired in these communications or what information was provided and communicated. This is important to note because Provider has the burden of proof in this case. Thus, if important facts are unknown, this lack of clarity will be more harmful to Provider, since it impacts Provider's ability to carry its burden of proof.

Here, it is undisputed that Provider was told by Carrier that an emergency admission does not require preauthorization. But, the evidence also indicates that Claimant's admission should not have been handled by Provider as an emergency admission. Claimant had pain from a prior surgery. But, the clinical findings by the doctor on the date of admission provide no basis for an emergency admission. The DWC Decision discusses these clinical findings at greater length, which included no fever or chills, no chest pain, no breathing problems, no palpitations, no dizziness, no vomiting, no abdominal pain, and no other conditions that would have required emergency treatment.[2] The only clinical concerns were complaints of knee pain and swelling in the area of the surgery; however, the doctor also noted that the surgical scar was "well-healed." Claimant was admitted to the orthopedic unit at the hospital where he received pain management and was monitored. On the third day after his admission, his knee was aspirated. Lab results showed no signs of infection. Upon his discharge later, the discharge summary noted that he was admitted simply for pain control and had two aspirations—which are properly considered outpatient procedures—that determined he had no infection.

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[2] RHD Ex. 1, at 3.

In this situation, the ALJ agrees with the DWC Decision, and finds that Claimant's condition was not an emergency condition.[3] Essentially, Claimant received 8 days of pain management in a hospital setting, with a couple of procedures/lab tests that ruled out any infection of his knee. Whether he should have been admitted at all is questionable, but it appears clear to the ALJ that there was nothing about his condition that would have necessitated an *emergency admission*. The mere fact that Claimant presented through the emergency room does not mean that he can be admitted for any reason without preauthorization. Namely, the emergency room cannot be used to bypass normal preauthorization requirements.

While Provider claims it attempted to request preauthorization, it has failed to show that it requested preauthorization for the non-emergency services provided. Carrier's witness testified that she was contacted by a hospital employee who left a message indicating that Claimant had presented in the emergency room and the hospital wanted preauthorization to admit him. She attempted to call the hospital employee back but the person was not available. Other records indicate that same hospital employee had a conversation with another of Carrier's representatives, who indicated that preauthorization was not required for an emergency room admission. This would have been accurate. But, it was incumbent on Provider's staff to make it clear that preauthorization was being sought for a normal hospital admission, not an emergency room admission (for which preauthorization is not required and would not be explicitly granted)

Claimant's non-emergency hospital admission required preauthorization under the rules in effect at the time the treatment was provided. Provider did not obtain such preauthorization. Whether this failure should be excused because Carrier unreasonably failed to process a request for preauthorization depends on the details of such request—details that are not clear from the record. Thus, the ALJ concurs with the DWC Decision and finds that Provider has not shown itself entitled to reimbursement for the services provided. Therefore, the ALJ denies Provider's

[3] The DWC Decision discusses the clinical findings, as well as the applicable rules defining emergency conditions and addressing preauthorization. Rather than restate those here, the ALJ refers the parties to the DWC Decision. *See* RHD Ex. 1, as well as RHD Ex. 4, which contains the underlying medical records.

request for relief from the DWC Decision and orders that Carrier is not required to provide any reimbursement to Provider. In support of this decision, the ALJ makes the following findings of fact and conclusions of law.

III. FINDINGS OF FACT

1. RHD Memorial Medical Center (Provider) provided hospital services to an injured worker (Claimant) from 2006, through , 2006.

2. Zurich American Insurance Company (Carrier) is responsible for the workers' compensation insurance coverage at issue in this case.

3. Claimant suffered a compensable injury that required knee surgery.

4. After his surgery, Claimant presented to Provider's emergency room on , 2006, for complaints of pain in his knee.

5. Provider admitted Claimant for 8 days, provided pain management and two aspirations of Claimant's knee, and determined that he had no infection.

6. The clinical findings by the treating doctor on the date of admission provide no basis for an emergency admission of Claimant. Claimant had no fever or chills, no chest pain, no breathing problems, no palpitations, no dizziness, no vomiting, no abdominal pain, and no other conditions that would have required emergency treatment. The only clinical concerns were complaints of knee pain and swelling in the area of the surgery; however, the doctor also noted that the surgical scar was well-healed.

7. Provider billed Carrier $31,588.00 for the treatment.

8. Carrier denied reimbursement of the claim on the basis that the services were not preauthorized and did not qualify as emergency services, because Claimant's condition did not require emergent treatment.

9. The Texas Department of Insurance, Division of Workers' Compensation (DWC) conducted Medical Fee Dispute Resolution (MFDR) regarding the disputed services.

10. DWC issued its MFDR Findings and Decision on February 8, 2013 (Decision).

11. The Decision denied additional reimbursement to Provider.

12. Provider timely requested a hearing before the State Office of Administrative Hearings (SOAH) to contest the Decision.

13. A Notice of Hearing was issued informing 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.

14. An evidentiary hearing convened on September 16, 2013, before Administrative Law Judge Craig R. Bennett at SOAH's facilities in Austin, Texas. Provider appeared and was represented by attorney P. Matthew O'Neil. Carrier appeared and was represented by attorney Steve Tipton.

15. The record closed at the conclusion of the hearing on September 16, 2013.

16. Provider did not obtain preauthorization for Claimant's admission to the hospital.

IV. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to Texas Labor Code § 413.031 and Texas Government Code chapter 2003.

2. Adequate and timely notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051 and 2001.052.

3. The applicable rules at the time the services were rendered required preauthorization for a non-emergency hospital admission.

4. Provider has the burden of proving by a preponderance of the evidence that it is entitled to additional reimbursement.

5. Provider has not proven by a preponderance of the evidence that it is entitled to reimbursement from Carrier for the disputed services provided to Claimant.

6. Provider is not entitled to reimbursement from Carrier for the services at issue.

ORDER

IT IS ORDERED that the request by RHD Memorial Medical Center for reimbursement from Zurich American Insurance Company for the services at issue in this case is **DENIED**. No reimbursement is required.

SIGNED November 14, 2013.

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