

**SOAH DOCKET NO. 454-13-3772.M4
MFDR NO. M4-12-2728-02**

CASTLEPOINT NATIONAL INSURANCE, Petitioner	§ § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
v.		
DISCOVERY HEALTH SERVICES, Respondent		

DECISION AND ORDER

Castlepoint National Insurance (Castlepoint) requested a hearing before the State Office of Administrative Hearings (SOAH) to challenge a Medical Fee Dispute Resolution Findings and Decision ordering it to reimburse Discovery Health Services (Discovery) \$15,852.97 for chronic pain management (CPM) services provided to an injured worker (Claimant). Administrative Law Judge (ALJ) Gary Elkins convened and closed the requested hearing on September 3, 2013. Castlepoint appeared and was represented by Attorney John Fundis. Discovery appeared without counsel and was represented by clinic supervisor Jan W. Ooms. The ALJ concludes that the disputed services were provided in accordance with the Texas Labor Code and the rules of the Texas Department of Insurance, Division of Workers' Compensation (Division). Consequently, Discovery is entitled to reimbursement for them.

I. DISCUSSION

A. Evidence and Argument

Claimant, an injured worker, suffered a compensable injury in____. Several years after the injury, he was admitted to a CPM program administered by Discovery. Before providing the CPM services, Discovery was required to secure preauthorization from Castlepoint. It did so. Consistent with the preauthorization granted by Castlepoint, Discovery provided 19 CPM

sessions to Claimant from June 8, 2011, through July 28, 2011. Discovery also provided a few miscellaneous services in conjunction with its treatment of Claimant, including a physical performance test and psychiatric testing.

In July 2010, approximately a year before the services were preauthorized and provided, Castlepoint submitted Claimant's medical records for peer review. The peer reviewing doctor concluded that Claimant's clinical documentation did not establish a causal relationship between his ___ injury and his symptom complaints. The peer reviewer reasoned that, because he could not determine that Claimant's medical complaints were related to the ___ injury, no further medical treatment was appropriate. Following its receipt of the peer review findings, Castlepoint notified Claimant in July 2010 via DWC Form PLN-11 that it was disputing his entitlement to future treatment.

Following Castlepoint's July 2010 notification to Claimant that it was disputing his entitlement to medical treatment, Discovery sought and received preauthorization to provide the CPM services in dispute. Preauthorization was granted by Coventry Health Care, a Utilization Review Agent for Castlepoint. After providing its CPM services, Discovery requested reimbursement. Despite Coventry's preauthorization of the services on behalf of Castlepoint, Castlepoint denied reimbursement based on the peer reviewer's conclusions in 2010.

At the hearing, Castlepoint argued that the compensable injury was not a cause of the necessity for Discovery's CPM services. It clarified that it was not taking the position that there was no injury to Claimant's cervical spine. Instead, it was challenging the presence of a relationship between Claimant's injury and the treatments provided. In response, Discovery asserted that Castlepoint accepted the cervical spine as the location of the compensable injury, Discovery sought and received preauthorization from Coventry—and, therefore, to from Castlepoint—to treat that location, and it did so consistent with the preauthorization. Consequently, it argued, it is entitled to full reimbursement for its services.

B. Analysis and Decision

Discovery is entitled to reimbursement for the CPM services. Despite Castlepoint's issuance of the PLN-11 informing Claimant that it disputed his entitlement to future services, the PLN-11 was not sufficient to activate an extent-of-injury challenge or any other type of challenge that would trigger the requirement of a contested case hearing before the Division. Instead, Castlepoint effectively preauthorized the disputed services through the actions of Coventry. Because Discovery provided the services consistent with the preauthorization, it is entitled to reimbursement for them. In support of this conclusion, the ALJ makes the following findings of fact and conclusions of law.

II. FINDINGS OF FACT

1. Claimant, an injured worker, suffered a compensable injury in_____.
2. At the time of the Claimant's injury, his employer held workers' compensation insurance coverage through Castlepoint National Insurance (Castlepoint).
3. Several years after the injury, Claimant was admitted to a chronic pain management (CPM) program administered by Discovery Health Services (Discovery).
4. Before providing the CPM services, Discovery was required to secure preauthorization from Castlepoint. Discovery did so, and it received preauthorization from Castlepoint to provide the services described in Finding of Fact No. 5.
5. Consistent with the preauthorization granted by Castlepoint, Discovery provided 19 8-hour CPM sessions under CPT Code 97799-CP, a psychiatric diagnostic evaluation under CPT Code 90801, and a physical performance test under CPT Code 97750. The services were provided from June 8, 2011, through July 28, 2011.
6. Discovery sought reimbursement for the CPM services.
7. Castlepoint denied Discovery's request for reimbursement.
8. Discovery timely filed a request for medical fee dispute resolution with the Texas Department of Insurance, Division of Workers' Compensation (Division).

9. On February 1, 2013, the Division's Medical Review Division (MRD) issued its Medical Fee Dispute Resolution Findings and Decision (MRD Decision), finding that Discovery was entitled to reimbursement in the amount of \$15,852.97.
10. Castlepoint timely requested a hearing before the State Office of Administrative Hearings (SOAH) to contest the MRD Decision.
11. A Notice of Hearing dated April 26, 2013, informed 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.
12. A hearing convened and closed before Administrative Law Judge Gary Elkins on September 3, 2013, at SOAH's facilities in Austin, Texas. Castlepoint appeared and was represented by attorney John Fundis. Discovery appeared without counsel and was represented by clinic supervisor Jan W. Ooms.

III. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to Tex. Lab. Code § 413.0312 and Tex. Gov't Code ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with Tex. Gov't Code §§ 2001.051 and 2001.052.
3. Because Discovery provided the services consistent with the preauthorization, it is entitled to reimbursement for them.
4. Pursuant to 28 Tex. Admin. Code § 134.204(h)(5)(B), Discovery is entitled to reimbursement for each of the 19 8-hour CPM sessions at the rate of \$100.00 per hour, for a total of \$15,200.
5. Pursuant to 28 Tex. Admin. Code § 134.203(c)(1), Discovery is entitled to reimbursement of \$248.97 for a psychiatric diagnostic evaluation provided under CPT Code 90801, and \$404.00 for a physical performance test provided under CPT Code 97750.

ORDER

IT IS ORDERED that Castlepoint National Insurance shall reimburse Discovery Health Services \$15,852.97 for services associated with the chronic pain management program provided to Claimant from June 8, 2011, through July 28, 2011.

SIGNED November 1, 2013.



GARY W. ELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS