MEDICAL CONTESTED CASE HEARING NO. 13074

DECISION AND ORDER

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

ISSUES

A contested case hearing was held on November 15, 2012 to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the IRO that the claimant is entitled to Additional Chronic Pain Management Program 5xwk x 2wks for the compensable injury of (Date of Injury)?

Though not certified, the following issue was added because it was actually litigated:

2. Whether the April 4, 2012 pre authorization was timely submitted after the first denial of pre authorization dated December 19, 2011?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by TL, ombudsman. Respondent/Carrier appeared and was represented by PM, attorney.

EVIDENCE PRESENTED

The following witnesses testified;

For Petitioner: None.

For Claimant: Claimant.

For Carrier: None.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits HO-1 and H0-2.

Petitioner's Exhibits: None.

Claimant's Exhibits: C-1 thru C-3.

Carrier's Exhibits: CR-A through CR-F.

BACKGROUND INFORMATION

The evidence presented in the hearing revealed that Claimant sustained a compensable injury to include her low back on (Date of Injury). The evidence presented indicates that the Claimant has chronic pain syndrome as diagnosed by a psychologist. Claimant entered a comprehensive pain management program in late November, 2011 and completed 10 sessions of comprehensive pain management over a two-week period.

The IRO reviewer overturned the denial of additional Chronic Pain Management Program 5xwk x 2wks based on the Official Disability Guidelines [ODG] and the reviewer's medical judgment, clinical experience and expertise in accordance with accepted medical standards. The IRO reviewer cited pertinent excerpts from the ODG, which recommend the Chronic Pain Management Program [i.e. "in order for a chronic multidisciplinary treatment program to continue for longer than two weeks, there should be evidence of compliance and significant demonstrated efficacy as documented by subjective and objective gains." *See* Carrier's Exhibit CR-D, p 5]. The IRO reviewer found there were letters of reconsideration which clearly indicated that the injured worker made progress in the treatment program. Reportedly, her physical capacity increased from a sedentary level to a medium PDL. In addition there, is indication of a reduction of her medication.

DISCUSSION

Texas Labor Code Section 408.021 provides that 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. Health care reasonably required is further defined in Texas Labor Code Section 401.011 (22a) as health care that is clinically appropriate and considered effective for the injured employee's injury and provided in accordance with best practices consistent with evidence based medicine or, if evidence based medicine is not available, then generally accepted standards of medical practice recognized in the medical community. Health care under the Texas Workers' Compensation system must be consistent with evidence based medicine if that evidence is available. Evidence based medicine is further defined in Texas Labor Code Section 401.011 (18a) to be the use of the current best quality scientific and medical evidence formulated from credible scientific studies, including peer-reviewed medical literature and other current scientifically based texts and treatment and practice guidelines. The Commissioner of the Division of Workers' Compensation is required to adopt treatment guidelines that are evidence-based, scientifically valid, outcome-focused and designed to reduce excessive or inappropriate medical care while safeguarding necessary medical care. Texas Labor Code Section 413.011(e). Medical services consistent with the medical policies and fee guidelines adopted by the commissioner are presumed reasonable in accordance with Texas Labor Code Section 413.017(1).

In accordance with the above statutory guidance, the Division of Workers' Compensation has adopted treatment guidelines by Division Rule 137.100. This rule directs health care providers to provide treatment in accordance with the current edition of the ODG, and such treatment is presumed to be health care reasonably required as defined in the Texas Labor Code. Thus, the focus of any health care dispute starts with the health care set out in the ODG. Also, in accordance with Division Rule 133.308 (t), "A decision issued by an IRO is not considered an agency decision and neither the Department nor the Division are considered parties to an appeal. In a Contested Case Hearing (CCH), the party appealing the IRO decision has the burden of overcoming the decision issued by an IRO by a preponderance of evidence-based medical evidence.

With regard to chronic pain/functional restoration programs, under "Chronic pain programs [functional restoration programs]," the ODG reads as follows:

> Recommended where there is access to programs with proven successful outcomes (i.e., decreased pain and medication use, improved function and return to work, decreased utilization of the health care system), for patients with conditions that have resulted in "*Delayed recovery*." There should be evidence that a complete diagnostic assessment has been made, with a detailed treatment plan of how to address physiologic, psychological and sociologic components that are considered components of the patient's pain. Patients should show evidence of motivation to improve and return to work, and meet the patient selection criteria outlined below. While these programs are recommended (see criteria below), the research remains ongoing as to
> (1) what is considered the "gold-standard" content for treatment
> (2) the group of patients that benefit most from this treatment;
> (3) the ideal timing of when to initiate treatment;
> (4) the intensity necessary for effective treatment; and
> (5) cost-effectiveness.
> It has been suggested that interdisciplinary/multidisciplinary care models for treatment of chronic pain may be the most effective way to treat this condition. (Flor, 1992) (Gallagher, 1999) (Guzman, 2001) (Sullivan, 2005) (Dysvik, 2005) (Airaksinen, 2006) (Schonstein, 2003) (Sanders, 2005) (Patrick, 2004) (Buchner, 2006) These treatment modalities are based on the biopsychosocial model, one that views pain and disability in terms of the interaction between physiological, psychological and social factors. (Gatchel, 2005) See Biopsychosocial model of chronic pain.
>
> **Types of programs:** There is no universal definition of what comprises interdisciplinary/multidisciplinary treatment, These pain rehabilitation programs (as described below) combine multiple treatments, and at the least, include psychological care along with physical and/or occupational therapy (including an

active exercise component as opposed to passive modalities). The most commonly referenced programs have been defined in the following general ways (Stanos, 2006):

(1) *Multidisciplinary programs:* Involves one or two specialists directing the services of a number of team members, with these specialists often having independent goals. These programs can be further subdivided into four levels of pain programs:

   (a) Multidisciplinary pain centers (generally associated with academic centers and include research as part of their focus)
   (b) Multidisciplinary pain clinics
   (c) Pain clinics
   (d) Modality-oriented clinics

(2) *Interdisciplinary pain programs:* Involves a team approach that is outcome focused and coordinated and offers goal-oriented interdisciplinary services. Communication on a minimum of a weekly basis is emphasized. The most intensive of these programs is referred to as a Functional Restoration Program, with a major emphasis on maximizing function versus minimizing pain. *See Functional restoration programs.*

Types of treatment: Components suggested for interdisciplinary care include the following services delivered in an integrated fashion:

(a) physical treatment;
(b) medical care and supervision;
(c) psychological and behavioral care;
(d) psychosocial care;
(e) vocational rehabilitation and training; and
(f) education.

Outcomes measured: Studies have generally evaluated variables such as pain relief, function and return to work. More recent research has begun to investigate the role of comorbid psychiatric and substance abuse problems in relation to treatment with pain programs. Recent literature has begun to suggest that an outcome of chronic pain programs may be to "demedicalize" treatment of a patient, and encourage them to take a more active role in their recover. These studies use outcomes such as use of the medical care system post-treatment. The role of the increasing use of opioids and other medications (using data collected over the past decade) on outcomes of functional restoration is in the early stages, and it is not clear how changes in medication management have affected outcomes, if at all. (*See Opioids for chronic pain.*)

Outcomes (in terms of body parts)

Neck and Shoulder: There are limited studies about the efficacy of chronic pain programs for neck, shoulder, or upper extremity musculoskeletal disorders. (Karjalainen, 2003) this may be because rates of cervical claims are only 20-25% of the rates of lumbar claims. In addition, little is know (sic) as to chronicity of outcomes. Researchers using PRIDE Program (Progressive Rehabilitation Institute of Dallas for Ergonomics) data compared a cohort of patients with cervical spine disorders to those with lumbar spine disorders from 1990-1995 and found that they had similar outcomes. Cervical patients were statistically less likely to have undergone pre-rehabilitative surgery. (Wright, 1999)

Multidisciplinary back training: (involvement of psychologists, physiotherapists, occupational therapists, and/or medical specialists). The training program is partly based on physical training and partly on behavioral cognitive training; Physical training is performed according to the "graded activity" principle. The main goal is to restore daily function. A recent review of randomized controlled studies of at least a year's duration found that this treatment duality produced a positive effect on work participation and possibly on qualify of life. There was no long-term effect on experienced pain or functional status (this result may be secondary to the instrument used for outcome measure). Intensity of training had no substantial influence on the effectiveness of the treatment. (van Green, 2007) (Bendix, 1997) (Bendix 1998) (Bendix 2000) (Frost, 1998) (Harkapaa, 1990) (Skouen, 2002) (Mellin, 1990) (Haldorsen, 2002)

Intensive multidisciplinary rehabilitation of chronic low back pain: The most recent Cochrane study was withdrawn from the Cochrane (3/06) as the last literature search was performed in 1998. Studies selected included a physical dimension treatment and at least on other treatment dimension (psychological, social, or occupational). Back schools were no included unless they included the above criteria. There was strong evidence that intensive multidisciplinary biopsychosocial rehabilitation with functional restoration improved function when compared to inpatient or outpatient nonmultidisciplinary rehabilitation. Intensive (> 100 hours), daily interdisciplinary rehabilitation was moderately superior to noninterdisciplinary rehabilitation or usual care for short- and long term functional status (standardized mean differences, -0.40 to -0.90 at 3 to 4 months, and -0.56 to -1.07 at 60 months). There was moderate evidence of pain reduction. There was contradictory evidence regarding vocational outcome. Lee intensive programs did not show improvements in pain, function, or vocational outcomes. It was suggested that patients should not be referred to multidisciplinary biopsychosocial rehabilitation without knowing the actual content of the program. (Guzman, 2001) (Guzman-*Cochrane,* 2002) (Bendix, 1997) (Bendix 1998)

(Bendix2, 1998) (Bendix 2000) (Frost, 1998) (Harkapaa, 1990) (Skouen, 2002) (Mellin, 1990) (Haldorsen, 2002)

Multidisciplinary biopsychosocial rehabilitations for subacute low back pain among working age adults: The programs described had to include a physical component plus either a psychological, social and/or vocational intervention. There was moderate evidence of positive effectiveness for multidisciplinary rehabilitation for subacute low back pain and that a workplace visit increases effectiveness. The trials included had methodological shortcomings, and further research was suggested. (Karjalainen, 2003)

Role of opioid use: *See Chronic pain programs, opioids*.

Role of comorbid psych illness: Comorbid conditions, including psychopathology, should be recognized as they can affect the course of chronic pain treatment. In a recent analysis, patients with panic disorder, antisocial personality disorder and dependent personality disorder were >2 times more likely to not complete an interdisciplinary program. Personality disorders in particular appear to hamper the ability to successfully complete treatment. Patients diagnosed with post-traumatic stress disorder were 4.2 times more likely to have additional surgeries to the original site of injury. (Dersh, 2007) The prevalence of depression and anxiety in patients with chronic pain is similar. Cohort studies indicate that the added morbidity of depression and anxiety with chronic pain is more strongly associated with severe pain and greater disability. (Poleshuck, 2009) (Blair, 2008)

Predictors of success and failure: As noted, one of the criticisms of interdisciplinary/multidisciplinary rehabilitation programs is the lack of an appropriate screening tool to help to determine who will most benefit from this treatment. Retrospective research has examined decreased rates of completion of functional restoration programs, and there is ongoing research to evaluate screening tools prior to entry. (Gatchel, 2006) There is need for research in terms of necessity and/or effectiveness of counseling for patients considered to b "at-risk" for post-discharge problems. (Proctor, 2004) The following variables have been found to be negative predictors of efficacy of treatment with the programs as well as negative predictors of completion of the programs:

(1) a negative relationship with the employer/supervisor;
(2) poor work adjustment and satisfaction;
(3) a negative outlook about future employment;
(4) high levels of psychosocial distress (higher pretreatment levels of depression, pain and disability);
(5) involvement in financial disability disputes;
(6) greater rates of smoking;

(7) increased duration of pre-referral disability time;
(8) higher prevalence of opioid use; and
(9) elevated pre-treatment levels of pain.
(Linton, 2001) (Bendix, 1998) (McGeary, 2006) (McGeary, 2004) (Gatchel2, 2005) (Dersh, 2007)

Role of duration of disability: There is little research as to the success of return to work with functional restoration programs in long-term disabled patients (> 24 months).

Studies support programs for patients with long-term disability: Long-term disabled patients (at least 18 months) vs. short-term disabled (4 to 8 months) were evaluated using Pride date (1990-1993). No control was given for patients that did not undergo a program. During the time studied program dropouts averaged 8% to 12%. (It does appear that at the time of this study, participants in the program were detoxified from opioids prior to beginning.) The long-term disabled group was more likely to have undergone spinal surgery, with this likelihood increasing with time. Return to work was statistically different between the short-term disabled (93%) and the long-term disabled-18 months (80%). The long-term disabled-25 months group had a 75% return to work. Long-term disabled-18 month patients were statistically more likely to visit new health providers than short-term disabled patients (34% and 25% respectively). Work retention at one year in groups up to 24 months duration of disability was 80%. This dropped to 66% in the group that had been disabled for > 24 months. The percentage of recurrent lost time injury claims increased from around 1% in the groups disabled for < 35 months to 8.3% in the groups disabled for > 36 months. A main criterion for success appeared to be the decision of the patient to actively participate in the program rehabilitation goals. (Jordan, 1998)

Studies suggesting limited results in patients with long-term disability: While early studies have suggested that time out-of-work is a predictor of success for occupational outcomes, these studies have flaws when an attempt is made to apply them to chronic pain programs. (Gallagher, 1989) (Beals, 1972) (Krause, 1994)

Washington State studied the role of duration of work injury on outcome using a statistical model that allowed for a comparison of patients that participated in a multidisciplinary pain program (using data from 1991-1993) vs. those that were evaluated and not treated. This was not an actual study of time of disability, but of duration of injury (mean years from injury to evaluation of 2.6 years for the treated group and 4.0 years for the evaluated only group). The original statistical analysis allowed for a patient to be included in a “treated group” for those individuals that both completed and did not complete the program. Data was

collected from 10 sites. Each of the centers was CARF approved and included Psych/behavioral treatment, vocation counseling and physical therapy. A sub-study evaluated a comparison of patients that were treatment completers vs. those that did participate (78.6%, N-=963). No information was given in terms of surgical procedures or medications; The primary outcome was time loss status of subjects 2 years after they had undergone the index pain center evaluation. In the 2001 study, if chronicity of duration of injury was controlled for, there was no significant benefit produced in terms of patients that were receiving time-loss benefits at 2-years post treatment between the two groups. Approximately 605 of both groups were not receiving benefits at the two-year period. As noted, the "treated patient" was only guaranteed to have started a program. A repeat analysis of only the patients who completed the study did not significantly change the results of the study. In a 2004 survey follow-up no significant difference was found between treated and untreated groups, although the treated group had been response. The survey response was 50%, and the treatment responders were more likely to be disabled at the time of the survey. The authors suggest that the results indicated early intervention was a key to response of the programs, and that modes goals (improvement, not cure) be introduced. (Robinson, 2004) (Robinson, 2001) [The authors also concluded that there was no evidence that pain center treatment affects either disability status or clinical status of injured workers.]

Timing of use: Intervention as early as 3 to 6 months post-injury may be recommended depending on identification of patients that may benefit from a multidisciplinary approach (from programs with documented positive outcomes). *See Chronic pain programs, early intervention.*

Role of post-treatment care (as an outcome): Three variables are usually examined;

(1) New surgery at the involved anatomic site or area;
(2) Percentage of patients seeking care from anew provided;
(3) Number of visits to the new provider over and above visits with the health-care professional overseeing treatment.

It is suggested that a "new provider is more likely to reorder diagnostic tests, provide invasive procedures, and start long-term analgesics. In a study to determine the relationship between post-treatment healthcare-seeking behaviors and poorer outcomes (using prospectively analyzed PRIDE data on patients with work-related musculoskeletal injuries), patients were compared that accessed healthcare with a new provided following functional restoration program completion (approximately 25%) to those that did not. The former group was significantly more likely to have an attorney involved with their case (22.7% vs. 17.1%, respectively), and to have had pre-rehabilitation surgery 920.7% vs.

12.1%, respectively). Return to work was higher in the group that did not access a new provider (90% vs. 77.6% in the group that did access). The group that did not access new providers also was more likely to be working a t one year (88%vs. 62.2% in the group that accessed new providers). It should be noted that 18% of the patients that entered the program dropped out or were asked to leave. The authors suggested monitoring of additional access of healthcare over and above that suggested at the end of the program, with intervention if needed. (Proctor, 2004) the latest AHRQ Comparative Effectiveness Research supports the ODG recommendations. (AHRQ, 2011)

See also Chronic pain programs, intensity: Chronic pain programs, opioids; Functional restoration programs; & Chronic pain programs early intervention.

Criteria for the general use of multidisciplinary pain management programs:

Outpatient pain rehabilitation programs may be considered medically necessary in the following circumstances:

(1) The patient has a chronic pain syndrome, with evidence of loss of function that persists beyond three months and has evidence of three or more of the following:
   (a) Excessive dependence on health-care providers, spouse, or family;
   (b) Secondary physical deconditioning due to disuse and/or fear-avoidance of physical activity due to pain;
   (c) Withdrawal from social activities or normal contact with others, including work, recreation, or other social contacts;
   (d) Failure to restore preinjury function after a period of disability such that the physical capacity is insufficient to pursue work, family, or recreational needs;
   (e) Development of psychosocial sequelae that limits function or recovery after the initial incident, including anxiety, fear-avoidance, depression, sleep disorders, or nonorganic illness behaviors (with a reasonable probability to respond to treatment intervention);
   (f) The diagnosis is not primarily a personality disorder or psychological condition without a physical component;
   (g) There is evidence of continued sue of prescription pain medications (particularly those that may result in tolerance, dependence or abuse) without evidence of improvement in pain or function.

(2) Previous methods of treating chronic pain have been unsuccessful and there is an absence of other options likely to result in significant clinical improvement.

(3) An adequate and thorough multidisciplinary evaluation has been made. This should include pertinent validated diagnostic testing that addresses the following:

(a) a physical exam that rules out conditions that require treatment prior to initiating the program. Al diagnostic procedures necessary to rule out treatable pathology, including imaging studies and invasive injections (used for diagnosis), should be completed prior to considering a patient a candidate for a program. The exception is diagnostic procedures that were repeatedly requested and not authorized. Although the primary emphasis is on the work-related injury, underlying non-work related pathology that contributes to pain and decreased function may need to be addressed and treated by a primary care physician prior to or coincident to starting treatment;

(b) Evidence of a screening evaluation should be provided when addiction is present or strongly suspected;

(c) Psychological testing using a validated instrument to identify pertinent areas that need to be addressed in the program (including but not limited to mood disorder, sleep disorder, relationship dysfunction, distorted beliefs about pain and disability, coping skills and/or locus of control regarding pain and medical care) or diagnoses that would better be addressed suing other treatment should be performed;

(d) An evaluation of social and vocational issues that require assessment.

(4) If a goal treatment is to prevent or avoid controversial or optional surgery, a trial of 10 visits (80 hours) may be implemented to assess whether surgery may be avoided.

(5) If a primary reason for treatment in the program is addressing possible substance use issues, an evaluation with an addiction clinician may be indicated upon entering the program to establish the most appropriate treatment approach (pain program vs. substance dependence program). This must address evaluation of drug abuse or diversion (and prescribing drugs in a non-therapeutic manner). In this particular case, once drug abuse or diversion issues are addressed, a 10-day trial may help to establish a diagnosis, and determine if the patient is not better suited for treatment in a substance dependence program. Addiction consultation can be incorporated into a pain program. If there is indication that substance dependence may be a problem, there should be evidence that the program has the capability to address this type of pathology prior to approval.

(6) Once the evaluation is completed, a treatment plan should be presented with specifics for treatment of identified problems, and outcomes that will be followed.

(7) There should be documentation that the patient has motivation to change, and is willing to change their medication regimen (including decreasing or actually weaning substances known for dependence). There should also be some documentation that the patient aware that successful treatment may change compensation and/or other secondary gains. In questionable cases, an opportunity for a brief treatment trial may improve assessment of patient motivation and/or willingness to decrease habituating medications.

(8) Negative predictors of success (as outlined above) should be identified, and if present, the pre-program goals should indicate how these will be addressed.

(9) If a program is planned for a patient that has been continuously disabled for greater than 24 months, the outcomes for the necessity for use should be clearly identified, as there is conflicting evidence that chronic pain programs provide return-to-work beyond this period. These other desirable types of outcomes include decreasing post-treatment care including medications, injections and surgery. This cautionary statement should not preclude patients off work for over two years from being admitted to a multidisciplinary pain management program with demonstrated positive outcomes in this population.

(10) Treatment is not suggested for longer than 2 weeks without evidence of compliance and significant demonstrated efficacy as documented by subjective and objective gains. (Note: Patients may get worse before they get better. For example, objective gains may be moving joints that are stiff from lack of use, resulting in increased subjective pain.) However, it is also not suggested that a continuous course of treatment e interrupted at two weeks solely to document these gains, if there are preliminary indications that they are being made on a concurrent basis.

(11) Integrative summary reports that include treatment goals, compliance, progress assessment with objective measures and stage of treatment, must be made available upon request at least on a bi-weekly basis during the course of the treatment program.

(12) Total treatment duration should generally not exceed 20 full-day 9160 hours) sessions (or the equivalent in part-day sessions if required by part-time work, transportation, childcare, or comorbidities). (Sanders, 2005) Treatment duration in excess of 160 hours requires a clear rationale for the

specified extension and reasonable goals to be achieved. Longer durations require individualized care plans explaining why improvements cannot be achieved without an extension as well as evidence of documented improved outcomes from the facility (particularly in terms of the speddcific outcomes that are to be addressed).

(13) At the conclusion and subsequently, neither re-enrollment in repetition of the same or similar rehabilitation program (e.g. work hardening, work conditioning, out-patient medical rehabilitation) is medically warranted for the same condition or injury (with possible exception for a medically necessary organized detox program). Prior to entry into a program the evaluation should clearly indicate the necessity for the type of program required, and providers should determine upfront which program their patients would benefit more from. A chronic pain program should not be considered a "stepping stone" after less intensive programs, but prior participating in a work conditioning or work hardening program does not preclude an opportunity for entering a chronic pain program if otherwise indicated.

(14) Suggestions for treatment post-program should be well documented and provided to the referral physician. The patient may require time-limited, less intensive post-treatment with the program itself. Defined goals for these interventions and planned duration should be specified.

(15) Post-treatment medication management is particularly important. Patients that have been identified as having substance abuse issues generally require some sort of continued addiction follow-up to avoid relapse.

Inpatient pain rehabilitation programs: These programs typically consist of more intensive functional rehabilitation and medical care than their outpatient counterparts. They may be appropriate for patients who:
(1) don't have the minimal functional capacity to participate effectively in an outpatient program;
(2) have medical conditions that require more intensive oversight;
(3) are receiving large amounts of medications necessitating medication weaning or detoxification; or
(4) have complex medical or psychological diagnosis that benefit from more intensive observation and/or additional consultation during the rehabilitation process.
(Keel, 1998) (Kool, 2005) (Buchner, 2006) (Kool, 2007) As with outpatient pain rehabilitation programs, the most effective programs combine intensive, daily biopsychosocial rehabilitation with a functional restoration approach. If a primary focus is drug treatment, the initial evaluation should attempt to identify

the most appropriate treatment plan 9a drug treatment/detoxification approach vs. a multidisciplinary/interdisciplinary treatment program). *See Chronic pain programs, opioids; Functional restoration programs.*

To overcome an IRO decision that approves treatment, a carrier has the burden of proof to show by a preponderance of the evidence-based medicine that the treatment requested is not reasonably required for the compensable injury.

In the instant case, the carrier asserted that the requested treatment is not consistent with the criteria set out by the Official Disability Guidelines. To support its assertion the carrier submitted the two utilization reviews which had denied the treatment. The carrier did not call an expert to testify.

According to the IRO report, the reviewer opined that the requested treatment was consistent with the ODG criteria. In the report, for example, the review writes:

1) There is indication that the injured worker's psychological distress reduced during the treatment program;
2) Records indicate she was depending less on medications to control her pain at the end of the treatment program and she was actually taking less prescribed medications;
3) The injured worker was compliant, motivated and made both physical and psychological improvement.

The reviewer concludes: "The medical record indicates that this injured worker meets ODG Treatment Guideline criteria for the prospective medical necessity of continuation of a chronic pain management five times a week for two weeks. Therefore, the requested service is medically necessary."

Concerning the second issue: according to Rule 134.600(o), Claimant has 30 days from the date on which she receives the denial to request reconsideration.

Carrier presented evidence which indicated it initially denied Claimant's request for additional Chronic Pain Management Program 5xwk x 2wks for health care reasonably required for the compensable injury of (Date of Injury) on December 19, 2011.

Claimant contends the December 19, 2011 denial is not the same as indicated in the April 5, 2012 denial which references a request for the program was denied on December 19, 2011 and not appealed. In the instant matter, a request for treatment was made by the Provider and denied on April 5, 2012. Reconsideration documentation was submitted on April 27, 2012 and denied on May 4, 2012. Lastly, Carrier submitted documents evidencing the IRO approved the requested treatment on June 1, 2012, after the May 4, 2012 denial.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

FINDINGS OF FACT

1. The parties stipulated to the following facts:

   A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.

   B. On (Date of Injury), Claimant was the employee of (Employer).

   C. On (Date of Injury), the Employer was a self-insured provider of Texas workers' compensation insurance coverage.

   D. On (Date of Injury), the Claimant sustained a compensable injury.

   E. The IRO determined that the Claimant should have the requested treatment on June 1, 2012.

2. Carrier delivered to Claimant and Provider a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.

3. The requested treatment is consistent with the criteria set out by the ODG.

4. The prospective medical necessity of continuation of a chronic pain management five times a week for two weeks is health care reasonably required for the compensable injury of (Date of Injury).

5. On December 19, 2011 Claimant's request for prospective care was denied by the Carrier and was not appealed.

6. On April 4, 2012 Claimant's subsequent request for prospective care was denied by the Carrier on April 5, 2012 and was timely appealed by the Claimant on May 4, 2012.

CONCLUSIONS OF LAW

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.

2. Venue is proper in the (City) Field Office.

3. The preponderance of the evidence is not contrary to the decision of the IRO that Claimant is entitled to additional Chronic Pain Management Program 5xwk x 2wks for the compensable injury of (Date of Injury).

4. Claimant's April 4, 2012 pre authorization was timely submitted.

DECISION

Claimant is entitled to additional Chronic Pain Management Program 5xwk x 2wks for the compensable injury of (Date of Injury). Claimant's April 4, 2012 preauthorization was timely submitted.

ORDER

Carrier is liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **[SELF-INSURED]** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 N ST. PAUL STREET
DALLAS, TX 75201

Signed this 17th day of March, 2013.

Jacqueline Harrison
Hearing Officer