

SOAH DOCKET NO. 453-04-2218M2R

TEXAS MUTUAL INSURANCE CO.	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
VS.	§	OF
	§	
DOUGLAS FARNSWORTH, D.C.,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

The issue in this case is whether an MRI of the Claimant’s cervical spine should be preauthorized. The Administrative Law Judge (ALJ) finds that the MRI should not be preauthorized.

I. DISCUSSION

In August of 2003, the Claimant’s treating doctor, Douglas Farnsworth, D.C., requested preauthorization for an MRI of the Claimant’s cervical spine. Texas Mutual Insurance Company (Carrier) denied the request on grounds of medical necessity. The Carrier found that the Claimant had three previous MRIs of the cervical spine in September of 1998, November 1998, and again in March of 2002, and a fourth was not medically necessary based upon the documentation provided.

The Claimant was injured on ___ when she strained her shoulder lifting boxes. She has received a great deal of care in addition to the MRIs, including ongoing chiropractic care, a disocgram, CT scans, shoulder surgery, work hardening, and pain management as well as years of prescription medications.

Shortly, after her third MRI in March of 2003, she consulted with Dr. Donald Hilton, Jr., a neurosurgeon, who found the MRI to show significant degenerative disease at C5B6 and C6-7 with significant foraminal impingement. At that time, she reported numbness into her first finger on the right side with pain shooting down her arm. He believed it to be “C7-type radiculopathy.” Dr. Hilton recommended an anterior cervical discectomy and fusion from C4-C7 with a graft and plating, which the Carrier later refused to preauthorize. While the Carrier indicated that it would preauthorize a foraminotomy at the C6-7 and possibly C5-6 level of the spine, she was, according to Dr. Hilton’s notes, adamant about proceeding with a three-level fusion, rather than the foraminotomy to address the radiculopathy she had been experiencing. Ex. 3 at 106.

Most recently, the Claimant has been seen by Fernando Avila, M.D., a pain management specialist, who saw her in September of 2003. She continues to complain of pain in the same regions in her body. The records indicate that she reported a pain level of about eight to ten on a ten-point scale and described the pain as sharp and throbbing, starting in her neck and radiating through both shoulders, through the right upper extremity and into her hand. Ex. 1 at 52.

Based upon the testimony of Nicolas Tsourmas, M.D. and Clark Watts, M.D., the Carrier argues that the previous MRIs in 1998 and 2002 show no progressive changes, and therefore, there is no reason to expect that an additional MRI would be of any use in her treatment. Additionally, there has not been a request for surgery; therefore, there is no need for an MRI. Both Dr. Tsourmas and Dr. Watts testified that if she was found to have a “significant clinical change” in her presentation reflected by symptoms consistent with a pinched nerve in her cervical spine, for instance pain in her forearms and beyond, he would find that an MRI could be appropriate. However, he did not believe there was a good correlation between the C6-C7 level of her spine and the symptoms that she was experiencing, nor was there an explanation for why her symptoms were right-sided when the previous MRI revealed that pain should be originating from the left side and, therefore, experienced on the left side of the body. Specifically, if the nerve at the C7 level were involved, he would expect to see pain in the forearm and into the fingers. Dr. Watts’ testimony echoed the same concerns.

Dr. Farnsworth maintains that Claimant’s condition has deteriorated, and that it is appropriate that she consult with her neurosurgeon about an appropriate course of care. He claims that Dr. Hilton, the neurosurgeon, will not see her without a repeat MRI performed within one year; however, the documentation in the record indicates that Dr. Hilton saw her previously without an MRI performed within the year, and then recommended an additional MRI in 2002, her third of the cervical region. Ex. 3 at 116. In his requests to the Carrier, Dr. Farnsworth states that he and Dr. Avila had conferred and believed that an MRI was necessary in order to get a surgical consultation. Ex. 3 at 91. In September of 2003, the Claimant wrote a letter reiterating this request and stated that she would like to get a surgical consultation because her symptoms have been getting progressively worse and she has lost a great deal of function in her right hand.

It is premature for the Claimant to have a fourth MRI when there have been no significant changes in her presentation and she has yet to consult with a neurosurgeon or orthopaedist. She has reported pain in her cervical region and pain down her arm and into her fingers since her last MRI in 2002. The Carrier has already indicated that it would approve a simple foraminotomy at the C6-7 level and possibly at the C5-6 level of the Claimant’s spine. The notes from the Carrier indicate that Dr. Hilton was in accordance with this approach, rather than a three-level fusion. Only the Claimant, it would appear, continued to feel that a three-level fusion was her only appropriate treatment option.

Optimally, it would be helpful to have a thorough physical examination performed by an orthopaedist or a neurosurgeon as Dr. Tsourmas suggested; and the ALJ finds it odd that Dr. Hilton would refuse to see a patient without an MRI, particularly as he agreed to do so before, and then simply ordered an MRI based upon the examination. The ALJ's review of the documentation does not reflect a significant change in the Claimant's condition since her last MRI in 2002 when the surgery was originally recommended. There is not sufficient information in the record to demonstrate the medical necessity of a fourth MRI of the cervical region at this time, when it appears that the Claimant has been evaluated for her radicular symptoms already. While it may be appropriate for her to consult additionally with a neurosurgeon or orthopaedist regarding treatment options and the viability of pursuing some form of surgery, the necessity of an additional MRI has not been currently demonstrated.

The IRO decision found that the requested MRI was medically necessary; however, it failed to consider that an MRI was performed in March of 2002, only mentioning an MRI in 1998. Therefore, the ALJ does not find the IRO's reasoning persuasive.

III. FINDINGS OF FACT

1. The Claimant sustained an on-the-job injury on ___ when she strained her shoulder while lifting boxes.
2. In August of 2003, the Claimant's treating doctor, Douglas Farnsworth, D.C., requested preauthorization for an MRI of the Claimant's cervical spine.
3. Texas Mutual Insurance Company (Carrier) refused to preauthorize the request for a fourth MRI on the Claimant's cervical spine.
4. The Medical Review Division office (MRD) of the Texas Workers' Compensation Commission found, based upon a decision issued by an independent review organization, that the MRI was medically necessary.
5. The Carrier appealed the decision of the MRD.
6. Notice of the hearing was sent January 16, 2004, The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
7. The hearing was convened on May 17, 2004 with Administrative Law Judge (ALJ) Janet Dewey presiding and representatives for the Carrier and the Dr. Farnsworth participating and the record closed the same day.

8. Shortly, after her third MRI in March of 2002, she consulted with Dr. Donald Hilton, Jr., a neurosurgeon who found that the most recent MRI showed significant degenerative disease at C5B6 and C6-7 with significant foraminal impingement. At that time, the Claimant reported numbness into her first finger on the right side with pain shooting down her arm. He believed it to be “C7-type radiculopathy.” Dr. Hilton recommended an anterior cervical discectomy and fusion from C4-C7 with a graft and plating, which the Carrier later refused to preauthorize. While the Carrier indicated that it would preauthorize a foraminotomy at the C6-7 level and possibly at the C5-6 level, the Claimant never pursued it.
9. The medical documentation shows consistent symptoms since the last MRI in March of 2002, including primarily pain in the cervical region, shoulders and down into the right arm and fingers. Further, there are no clinical findings demonstrating any changes in the Claimant’s condition, only subjective reports of the Claimant’s symptoms.
10. It is premature for the Claimant to have a fourth MRI when there have been no significant changes in her presentation and she has yet to consult with a neurosurgeon or orthopaedist regarding either surgery that the Carrier indicated it would approve or some other type of treatment.
11. An additional MRI of the Claimant’s cervical spine is not medically necessary and reasonable health care at this time.

IV. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. § 413.031(k) and TEX. GOV’T CODE ANN. Ch. 2003 (Vernon 2000 and Supp. 2004).
2. Carrier timely filed its request for a hearing as specified in 28 TEX. ADMIN. CODE (TAC) § 148.3.
3. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV’T CODE ANN. § 2001.052.
4. The Carrier has the burden of proof in this proceeding under 28 TAC § 148.21(h).
5. The requested MRI of the Claimant’s cervical spine is not medically necessary healthcare.
6. The Provider’s request for preauthorization of an MRI of the cervical region of the Claimant’s spine is denied.

ORDER

IT IS, THEREFORE, ORDERED that preauthorization for an MRI of the cervical region of the Claimant's spine, in accordance with Dr. Farnsworth's request, is DENIED

SIGNED June 16, 2004.

**JANET R. DEWEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**