DOCKET NO. 453-04-4337.M5
TWCC MDR NO. M5-03-2639-01

TRUCK INSURANCE EXCHANGE	'	**BEFORE THE STATE OFFICE**
	'	
PETITIONER	'	
V.	'	
	'	**OF**
	'	
BEHAVIORAL HEALTHCARE ASSOCIATES	'	
	'	
RESPONDENT	'	**ADMINISTRATIVE HEARINGS**

DECISION AND ORDER

I. SUMMARY

The Independent Review Organization (IRO) decision involved four disputed services B a clinical interview and evaluation (CPT Code 90801, performed on October 14, 2002), psychological testing (CPT Code 90830, performed on October 31, 2002), and psychophysiological profile assessment/biofeedback (CPT Codes 90900 and 90906, performed on October 31, 2002). The IRO held that the CPT Codes 90900 and 90906 were medically necessary and should be reimbursed.[1] The IRO further held that CPT Code 90801, the clinical interview and evaluation, were not medically necessary and should not be reimbursed. Truck Insurance Exchange (Carrier) and Behavioral Healthcare Associates (Provider) both appealed the IRO's decision; however, at the hearing, Carrier indicated that it did not wish to pursue its appeal on CPT Codes 90830, 90900, and 90906. Therefore, the only issue in this case involves the medical necessity of CPT Code 90801, the clinical interview and evaluation.

[1] The Medical Review Division determined that the psychological testing (CPT Code 90830) should be reimbursed because it had been preauthorized and properly documented. The IRO did not consider CPT Code 90830 in its decision.

The Administrative Law Judge (ALJ) finds the clinical interview and evaluation were medically necessary and should be reimbursed.

II. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

On June 17, 2004, ALJ Michael J. O'Malley convened the hearing on the merits at the William P. Clements Building, 300 West 15th Street, Austin, Texas. Carrier appeared through its attorney, James M. Loughlin. Provider appeared through its representative, Pamela Jones. After the evidence was presented, the record of the hearing closed the same day.

III. BACKGROUND, EVIDENCE, AND DISCUSSION

1. Background

On ____, Claimant ____(a 45-year old male) sustained a compensable injury. Claimant worked for ____ as a tape and bed floater. While at work, Claimant fell off a pair of stilts injuring his cervical, thoracic, and lumbar spine. Claimant was treated with electrical muscle stimulation, hot/cold packs, intersegmental traction and manipulation, a work hardening program, lumbar epidural steroid injections, oral medications, and sacroiliac joint arthrogram. Claimant has also undergone back surgery. Despite the various treatment programs and surgery, Claimant was unable to return to work.

2. Parties' Positions and Evidence

1. Provider's Position and Evidence

Provider submitted certain medical documents in evidence as Provider's Ex. 1. Provider did not present any witnesses. Provider argues that insurance protocol requires that a psychological evaluation be conducted before psychological testing is performed. Provider also contends that Claimant's case was complex in that he has had a variety of treatments, including two surgeries. Because of the complexity of his case, Provider asserts that a psychological evaluation was medically necessary to determine the appropriate course of treatment to return Claimant to work. Provider Ex. 1 at 1-4.

2. Carrier's Position and Evidence

Carrier did not present any witnesses and did not submit any medical records in evidence. Carrier argues that the ALJ should give presumptive weight to the IRO decision, which held that the psychological interview and evaluation were not medically necessary because they did not yield any treatment suggestions or new information.

3. ALJ's Analysis

Jon P. Patterson, D.C. (Claimant's treating doctor) referred Claimant to Provider for psychological testing and analysis to evaluate Claimant's psychological condition, to determine the

compensable symptoms, and to design an effective treatment plan. Dr. Patterson believed that Claimant might be a candidate for a multidisciplinary chronic pain management program because Claimant had not been able to return to work. Provider Ex. 1 at 10. Carrier's only argument is that the interview and evaluation were not medically necessary because they did not provide treatment suggestions.[2]

On October 14, 2002, during the initial psychological interview and evaluation, Provider interviewed Claimant to determine the appropriate psychological tests that would need to be conducted to assess his psychological condition. As noted by Provider, insurance protocol requires that an interview and evaluation be conducted before Provider recommends psychological tests. Because of the complexity of Claimant's case, it was medically necessary for Provider to interview

Claimant before making its recommendation.[3] Based on the interview, Provider sought and received

preauthorization to perform various psychological tests.

Although Carrier does not dispute the medical necessity of the preauthorized psychological tests, it does dispute the medical necessity of the initial interview and evaluation, which the ALJ finds to be inconsistent. The initial interview and evaluation were necessary to determine the

[2] Carrier essentially adopted the reasoning of the IRO and suggested that the IRO decision should be given presumptive weight. Carrier does not argue that preauthorization was required for the psychological interview and evaluation. Preauthorization was not required for the psychological interview and evaluation. 28 TEX. ADMIN. CODE 134.600(h)(4).

[3] If Provider had not interviewed and evaluated Claimant's condition before seeking preauthorization for the psychological tests, it is likely that Carrier might have denied preauthorization for the psychological tests.

appropriate psychological tests to perform. As previously mentioned, Claimant's case was extremely

complicated in that he had participated in various treatment programs and had surgery, but he was still unable to return to work. Ultimately, based on all the tests performed, Provider recommended a multidisciplinary chronic pain program, which was later denied by Carrier.[4]

Because of the chronic nature of Claimant's injury, the failure of prior treatment programs, and his inability to return to work, the psychological interview and evaluation were medically necessary to determine the appropriate psychological tests to be performed, which would be used to develop an effective treatment program and ultimately return Claimant to work. Texas Workers' Compensation Act, TEX. LAB. CODE ANN. ' 408.021.

IV. FINDINGS OF FACT

1. On ____, Claimant ____(Claimant) fell off a pair of stilts while working as a tape and bed floater for ____. As a result of the accident, Claimant injured his cervical, thoracic, and lumbar spine.

2. At the time of the injuries, Claimant's employer had workers' compensation insurance through Truck Insurance Exchange (Carrier).

3. Jon P. Patterson, D.C. became Claimant's treating doctor.

4. Dr. Patterson referred Claimant to Behavioral Healthcare Associates (Provider) for psychological testing to evaluate Claimant's psychological condition, to determine the

[4] Carrier's later denial of the chronic pain management program would not negate the medical necessity of the psychological interview and evaluation, especially since Carrier did not dispute the medical necessity of the psychological tests and biofeedback that were performed based on Provider's assessment during the interview and evaluation.

compensable symptoms, and to design an effective treatment plan.

5. On October 14, 2002, Provider conducted an initial interview and evaluation of Claimant to determine the appropriate psychological tests that would need to be conducted to assess his psychological condition.

6. On October 31, 2002, after receiving preauthorization, Provider conducted various psychological tests and biofeedback.

7. As a result of the psychological testing, Provider recommended a multidisciplinary chronic pain program.

8. Carrier does not dispute the medical necessity of the psychological testing and biofeedback performed on October 31, 2002.

9. Provider seeks reimbursement for the October 14, 2002 psychological interview and evaluation.

10. Carrier denied reimbursement for the psychological interview and evaluation claiming they were not medically necessary.

11. On January 14, 2004, an Independent Review Organization (IRO) denied Provider reimbursement for the October 14, 2002 psychological interview and evaluation (CPT Code 90801) but recommended reimbursement for the October 31, 2002 psychological tests and biofeedback (CPT Codes 90900 and 90906).

12. On February 9, 2004, the Medical Review Division (MRD) of the Texas Workers' Compensation Commission recommended reimbursement for CPT Code 90830, Psychological Testing. MRD issued a decision because the IRO did not address CPT Code 90830, Psychological Testing in its decision.

13. On February 19, 2004, Provider appealed the IRO's decision. And, on February 27, 2004, Carrier appealed the IRO's decision.

14. The Texas Workers' Compensation Commission (Commission) sent notice of the hearing to the parties on April 8, 2004. The hearing notice informed the parties of the matter to be determined, the right to appear and be represented, the time and place of the hearing, and the

statutes and rules involved.

15. The hearing was held on June 17, 2004. Carrier appeared through its attorney, James M. Loughlin. Provider appeared through its representative, Pamela Jones.

16. At the hearing, the only contested issue involved the medical necessity of the October 14, 2002 psychological interview and evaluation.

17. On October 14, 2002, during the initial psychological interview and evaluation, Provider interviewed Claimant to determine the appropriate psychological tests that would need to be conducted to assess his psychological condition.

18. Insurance protocol requires that an interview and evaluation be conducted before Provider recommends psychological tests.

19. Claimant's case was extremely complicated in that he had participated in various treatment programs and had surgery, but he was still unable to return to work.

20. Because of the complexity of Claimant's case, it was medically necessary for Provider to interview and evaluate Claimant before recommending psychological testing.

21. Based on the interview and evaluation, Provider sought and received preauthorization to perform various psychological tests and biofeedback.

V. CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. '' 402.073 and 413.031(k) and TEX. GOV'T CODE ANN. ch. 2003.

2. Proper and timely notice of the hearing was provided to the parties in accordance with TEX. GOV'T CODE ANN. '' 2001.051 and 2001.052.

3. Pursuant to 28 TEX. ADMIN. CODE ' 148.21(h), Provider had the burden of proving by a preponderance of the evidence that the October 14, 2002 psychological interview and evaluation were medically necessary.

4. Provider proved by a preponderance of the evidence that the October 14, 2002 psychological interview and evaluation provided the necessary information to assess Claimant's psychological condition and, therefore, were medically necessary.

4. Because of the chronic nature of Claimant's injury, the failure of prior treatment programs, and his inability to return to work, the psychological interview and evaluation were medically necessary to determine the appropriate psychological tests to be performed, which would be used to develop an effective treatment program and ultimately return Claimant to work. Texas Workers' Compensation Act, TEX. LAB. CODE ANN. ' 408.021.

5. The psychological interview and evaluation did not require preauthorization. 28 TEX. ADMIN. CODE ' 134.600(h)(4).

6. Based on the Findings of Fact and Conclusions of Law, Provider should be reimbursed for the October 14, 2002 psychological interview and evaluation.

ORDER

IT IS HEREBY ORDERED that Truck Insurance Exchange shall reimburse Behavioral Healthcare Associates for the October 14, 2002 psychological interview and evaluation.

SIGNED August 10, 2004.

MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING