

**SOAH DOCKET NO. 453-04-5999.M2  
TWCC MR NO. M2-04-0931-01**

—,	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
V.	§	<b>OF</b>
	§	
<b>NORTH RIVER INSURANCE</b>	§	
<b>COMPANY OF NE,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**DECISION AND ORDER**

**I. INTRODUCTION**

\_\_\_ (Claimant) has appealed a decision of an independent review organization (IRO) on behalf of the Texas Workers' Compensation Commission (TWCC). The decision concerned the denial by North River Insurance Company of NE (Carrier) denial of a request by Paul Ellis, M.D., (Provider) request for pre-authorization of medical services for the Claimant. The IRO found that the request for a third MRI for the Claimant's right hand was not reasonably medically necessary to treat the Claimant's compensable injury.

The only disputed issue is whether the third MRI is necessary. As set out below, the Administrative Law Judge (ALJ) finds the Claimant failed to prove that a third MRI is reasonably necessary to treat the Claimant's compensable injury. The request is denied.

**II. BASIS OF DECISION**

Paul Ellis, M.D., Claimant's treating physician, testified that he does not disagree with the IRO decision and that he does not know if a third MRI on Claimant's right hand will benefit Claimant. Based upon that testimony and the absence of other evidence supporting the need for the MRI, the ALJ finds that the request for the MRI should be denied.

**III. FINDINGS OF FACT**

1. On \_\_\_, the Claimant sustained a work-related injury to a finger on her right hand.
2. Subsequent to her injury, the Claimant has complained of pain in her right hand.
3. On the date of injury, North River Insurance Company of NE was the workers' compensation insurance carrier for Claimant's employer.
4. On March 6, 1991, Claimant underwent carpal tunnel release surgery and has had multiple carpal tunnel release surgeries since that time, as well as surgery on her left hand.

5. Claimant underwent an MRI on August 2 1993, that showed progressive carpal tunnel syndrome for both hands.
6. Claimant underwent an MRI in January of 1995, that showed progressive carpal tunnel syndrome.
7. Claimant was involved in an automobile accident in September of 1993, which complicated her condition.
8. Claimant was not treated or examined by her treating physician for a six year period
9. On October 2, 2002, the Provider prescribed a third MRI for the Claimant.
10. The Provider requested pre-authorization from the Carrier for the third MRI.
11. The Carrier denied the pre-authorization request.
12. The Provider asked the Carrier to reconsider its denial of the pre-authorization request.
13. The Carrier again denied the pre-authorization request.
14. After the Carrier twice denied pre-authorization, the Provider filed a request with TWCC for medical dispute resolution concerning that pre-authorization request.
15. On April 24, 2003, the IRO reviewed the medical dispute and found that the third MRI was not medically necessary.
16. The Provider does not disagree with the IRO decision.
17. After the IRO decision was issued, the Claimant asked for a contested-case hearing by a State Office of Administrative Hearings (SOAH) ALJ concerning the dispute.
18. The required notice of the contested-case hearing was given to the Claimant and the Carrier.
19. On November 15, 2004, SOAH ALJ John H. Beeler held a contested-case hearing concerning the dispute at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. The hearing concluded and the record closed on that same day.
20. The Carrier appeared at the hearing through its attorney.
21. The Claimant appeared at the hearing by telephone.
22. TWCC Ombudsman Luz Loza appeared to assist the Claimant.

#### IV. CONCLUSIONS OF LAW

23. 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. LABOR CODE ANN. (Labor Code) §§ 402.073(b) and 413.031(k) (West 2004) and TEX. GOV'T CODE ANN. (Gov't Code) ch. 2003 (West 2004).
24. Adequate and timely notice of the hearing was provided in accordance with Gov't Code §§ 2001.051 and 2001.052.
25. Based on the above Findings of Fact and Gov't Code § 2003.050 (a) and (b), 1 TEX. ADMIN. CODE (TAC) § 155.41(b) (2004), and 28 TAC §§ 133.308(v) and 148.21(h) (2004), the Claimant has the burden of proof in this case
26. 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 that cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. Labor Code § 408.021 (a).
27. TWCC must specify by rule which health care treatments and services require express pre-authorization by a carrier. A carrier is not liable for those specified treatments and services unless pre-authorization is sought by the claimant or a health care provider and either obtained from the carrier or ordered by TWCC. Labor Code § 413.014
28. Pre-authorization is required for the requested procedure. 28 TAC § 134.600.
29. The evidence does not show that the Claimant needs a third MRI on her right hand.
30. The MRI should be denied.

#### ORDER

**IT IS ORDERED THAT** the request for pre-authorization for a third MRI on the Claimant's right hand is denied.

**SIGNED December 14, 2004.**

---

**JOHN H. BEELER  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**