

AMERICAN HOME ASSURANCE § BEFORE THE STATE OFFICE  
COMPANY §  
§  
V. § OF  
§  
NORTH TEXAS PAIN RECOVERY §  
CENTER § ADMINISTRATIVE HEARINGS

### **DECISION AND ORDER**

American Home Assurance Company (Carrier) appealed the decision of the Independent Review Organization (IRO) approving the preauthorization request of North Texas Pain Recovery Center (Provider) for 10 days (80 hours) of chronic pain management for Claimant, an injured worker. After considering the evidence presented, the Administrative Law Judge (ALJ) concludes that Carrier failed to prove by a preponderance of the evidence that the requested chronic pain management sessions are not medically necessary treatment for Claimant's work-related, compensable injury. Accordingly, the ALJ finds that the chronic pain management should be preauthorized.

#### **I. BACKGROUND FACTS AND PROCEDURAL HISTORY**

Claimant is a 45-year-old woman who suffered a compensable, work-related injury on \_\_\_\_, while lifting heavy crates. An MRI of her lumbar spine was reported as significant for a left paracentral disk herniation at L4-5 and a right paracentral disk herniation at L3-4. A CT myelogram and surgery were recommended but denied by the Carrier. Claimant was maintained on pain medications and she participated in a physical therapy program from April 19, 2004, through May 11, 2004. She was also treated with individual psychological counseling and biofeedback therapy in April and May 2004. Claimant was referred to Provider to determine whether she was an appropriate candidate for a chronic pain management program. After examining Claimant and reviewing her injury history, Provider recommended and sought preauthorization for a chronic pain management program. Carrier denied the preauthorization.

When the Carrier denied the preauthorization, Provider requested medical dispute resolution by the Texas Workers' Compensation Commission (Commission). The matter was referred to an IRO designated by the Commission for the review process. The IRO determined that the chronic pain management program was medically necessary and should be authorized. Carrier then requested a hearing before SOAH, resulting in this proceeding.

#### **II. DISCUSSION AND ANALYSIS**

The sole issue in this case is whether the chronic pain management program is medically necessary to treat Claimant's work-related injury. This matter is governed by the Texas Workers' Compensation Act (Act) and the Commission's rules.<sup>1</sup> Section 408.021(a) of the Act governs an

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<sup>1</sup> The Act is found at TEX. LAB. CODE ANN. ch. 401 *et seq.*

injured worker's entitlement to benefits for compensable injuries under the Act and 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. Certain health care, however, must be preauthorized before it can be provided within the strictures of the Act, and such preauthorization will be granted if there is a prospective showing of medical necessity.<sup>2</sup> Chronic pain management is one type of treatment for which preauthorization is required.<sup>3</sup>

In disputing the medical necessity of treatment in this case, Carrier presented the documented medical opinions of physicians and scientific literature generally concluding that prior treatment failure is predictive of failure for the proposed treatment. Further, Carrier's reviewers contested the value of the mental health examination given Claimant, arguing that it offers one diagnosis that is indistinguishable from normal human functioning and a second diagnosis that the American Medical Association has specified is not official nomenclature and strays from the diagnostic standards of the American Psychiatric Association. This same reviewer opined that Claimant's documented pain severity ratings were objectively more consistent with exaggeration, rather than with a valid presentation of pain.

On behalf of Provider, Kenneth N. Walker, Psychologist, testified that Claimant is an excellent candidate for behavioral pain management. Dr. Walker's conclusion was reached after he performed a clinical interview of Claimant, reviewed her medical records, and had her perform several evaluations, including a screening test, a Beck depression inventory, a Dallas Pain Questionnaire, and a Millon Behavioral Medicine Diagnostic. Provider would have the ALJ contrast Dr. Walker's examination and expert opinion with those offered by Carrier, which allegedly relied upon unsigned reviews by unknown persons who did not examine Claimant.

Dr. Walker relied heavily on a Global Assessment of Functioning (GAF) exam performed by Claimant. Noting that a score of 40-90 suggest a patient is appropriate for referral to a pain management program, Dr. Walker testified that Claimant scored a 60. Specific factors that led to Claimant's GAF score and Dr. Walker's determination that she is an excellent candidate for a pain management program included her lengthy time with pain, that she has received adequate medical care without relief, and that the pain continues to disrupt her life. All of these result in Claimant's substantial preoccupation with pain-which, in Dr. Walker's opinion, will result in a long-term outcome of continued low functioning, disability, and generally poor prognosis unless she participates in a pain management program.

After considering the documentary evidence, the ALJ concludes that a pain management program is medically reasonable and necessary for Claimant. The ALJ finds that Dr. Walker performed a more thorough review of Claimant's condition and offered reasoned opinions and credible testimony supporting Provider's position. Given this evidence, Carrier failed to meet its burden of proving the treatment sought is not medically reasonable and necessary. Therefore, the ALJ finds that chronic pain management treatment should be preauthorized. In support of this conclusion, the ALJ makes the following findings of fact and conclusions of law.

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<sup>2</sup> TEX. LABOR CODE ANN. § 413.014; 28 TEX. ADMIN. CODE § 134.600.

<sup>3</sup> 28 TEX. ADMIN. CODE § 134.600(h)(10)(B).

### III. FINDINGS OF FACT

1. Claimant suffered a compensable, work-related injury on \_\_\_\_, while lifting heavy crates.
2. American Home Assurance Company (Carrier) is the provider of workers' compensation insurance covering Claimant for her compensable injury.
3. An MRI of Claimant's lumbar spine was reported as significant for a left paracentral disk herniation at L4-5 and a right paracentral disk herniation at L3-4.
4. A CT myelogram and surgery were recommended but denied by the Carrier.
5. Claimant was also treated with individual psychological counseling and biofeedback therapy in April and May 2004.
6. After examining Claimant and reviewing her injury history, North Texas Pain Recovery Center (Provider) recommended and sought preauthorization for a chronic pain management program.
7. Carrier denied the preauthorization.
8. Provider requested medical dispute resolution by the Texas Workers' Compensation Commission's Medical Review Division (MRD), which referred the matter to an Independent Review Organization (IRO).
9. After conducting medical dispute resolution, the IRO physician reviewer determined that chronic pain management was medically necessary and should be authorized.
10. Carrier timely requested a hearing on the IRO decision and the case was referred to the State Office of Administrative Hearings (SOAH).
11. The hearing convened on September 21, 2004, with both parties participating.
12. The record closed on October 1, 2004, with the filing of briefs.
13. No parties have raised challenges to notice or jurisdiction.
14. The primary reasons for chronic pain management treatment for Claimant are that she has been in pain for an extended length of time, has received adequate medical care without relief, and has continued to have the pain disrupt her life.
15. Dr. Walker performed a clinical interview of Claimant, reviewed her medical records, and had her perform several evaluations, including a screening test, a Beck depression inventory, a Dallas Pain Questionnaire, and a Millon Behavioral Medicine Diagnostic.
16. Dr. Walker determined that Claimant was an appropriate candidate for a pain management program.
17. Claimant performed a Global Assessment of Functioning (GAF) which indicated she was an appropriate patient for referral to a pain management program.

18. A chronic pain management program is likely to provide medical benefit to Claimant.

#### **IV. CONCLUSIONS OF LAW**

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to the Texas Workers' Compensation Act (the Act), specifically TEX. LABOR CODE ANN. §413.031(k), and TEX. GOV'T CODE ANN. ch. 2003.
2. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 28 TEX. ADMIN. CODE ch. 148.
3. The request for a hearing was timely made pursuant to 28 TEX. ADMIN. CODE § 148.3.
4. Adequate and timely notice of the hearing was provided according to TEX. GOV'T CODE ANN. §§2001.051 and 2001.052.
5. Carrier has the burden of proof in this matter. 28 TEX. ADMIN. CODE §§ 148.21(h) and 133.308(v).
6. Carrier failed to establish, by a preponderance of the evidence, that the requested chronic pain management plan is not medically necessary for the treatment of Claimant's work-related injury.
7. Provider's request for preauthorization should be granted.

#### **ORDER**

IT IS, THEREFORE, ORDERED that the requested 10 days and 80 hours of chronic pain management are medically necessary, and preauthorization for such is granted.

**Signed October 21, 2004.**

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**TOMMY L. BROYLES  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**