

TEXAS IMAGING & DIAGNOSTIC CENTER, Petitioner	§ § § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
V. AMERICAN GUARANTY & LIABILITY COMPANY, Respondent		

DECISION AND ORDER

I. STATEMENT OF CASE

Texas Imaging & Diagnostic Center (Petitioner/Provider) disputes the decision of an independent review organization (IRO) on behalf of the Texas Workers' Compensation Commission¹ in a dispute regarding medical necessity for two lumbar epidural steroid injections provided to __. (Claimant). The IRO found that American Guaranty & Liability Company (Respondent/Carrier) properly denied reimbursement for the injections provided on November 11, 2003, and January 7, 2004.

As set out below, the Administrative Law Judge (ALJ) finds that one injection was preauthorized by Carrier. Accordingly, the ALJ orders Carrier to reimburse Provider \$1,372.84 for the disputed services.

II. FINDINGS OF FACT

1. On __, Claimant __injured his back while lifting a container of paint thinner weighing approximately 50 pounds.
2. On the date of Claimant's compensable injury, American Guaranty & Liability Company (Carrier) was the workers' compensation insurance carrier for his employer.
3. On September 26, 2003, Claimant's treating doctor, Pedro Nosnik, M.D., examined Claimant and found him to have pain and discomfort. Dr. Nosnik determined that a series of lumbar epidural steroid injections (ESIs) might decompress the nerve.
4. On November 11, 2003, and January 7, 2004, Provider performed a lumbar ESI on Claimant.
5. Provider billed Carrier \$1,372.84 for the November 11, 2003 injection and \$735.40 for the January 7, 2004 injection, both referenced in the above finding of fact.

¹ Effective September 1, 2005, the functions of the Commission have been transferred to the newly created Division of Workers' Compensation at the Texas Department of Insurance.

6. The purpose of an ESI is to reduce the inflammation of the nerve root secondary to a disc lesion.
7. Carrier preauthorized an ESI to take place from November 4 to December 4, 2003.
8. Carrier did not preauthorize the January 7, 2004 injection.
9. On November 18, 2004, Provider sought reimbursement from the Carrier for the provided medical services.
10. Carrier timely sent explanations of benefit (EOB) to Provider denying the requested reimbursement and claiming that Provider had not shown that the medical services were medically necessary to treat the compensable injury.
11. Provider timely filed a request for medical dispute resolution with the Texas Workers' Compensation Commission (TWCC).
12. An IRO reviewed the medical dispute and found that the disputed services were not medically necessary to treat the compensable injury.
13. Based on the IRO's findings, TWCC's Medical Review Division (MRD) denied Provider's request to be reimbursed for the disputed services.
14. After the IRO decisions and MRD orders were issued, Provider asked for a contested-case hearing by a State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) concerning the above disputes.
15. TWCC referred this case to SOAH for hearing before September 1, 2005.
16. Required notice of the contested-case hearing concerning the dispute was timely mailed to Carrier and Provider.
17. On August 31, 2005, SOAH ALJ Lilo D. Pomerleau held a contested-case hearing in this matter at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. The record closed on November 10, 2005.
18. Carrier appeared at the hearing through its attorney, Steven M. Tipton.
19. Provider appeared at the hearing through its attorney, Scott C. Hilliard.

III. 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. LABOR CODE ANN. §§402.073(b) and 413.031(k) (West 2005); TEX. GOV'T CODE ANN. ch. 2003 (West 2005); and Acts 2005, 79th Leg., ch. 265 § 8.013, eff. Sept. 1, 2005.

2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV' T CODE ANN. §§ 2001.051 and 2001.052.
3. Based on the above Findings of Fact and TEX. GOV' T CODE ANN. § 2003.050 (a) and (b), 1 TEX. ADMIN. CODE § 155.41(b) (2004), and 28 TEX. ADMIN. CODE §§ 133.308(u) and 148.14 (2005), Provider has the burden of proof in this case.
4. 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. TEX. LABOR CODE ANN. § 408.021 (a).
5. The injury described in Finding of Fact No. 1 was a compensable injury under the Texas Workers' Compensation Act (the Act), TEX. LABOR CODE ANN. § 401.001 *et seq.*
6. Pre-authorization is required for a lumbar ESI. 28 TEX. ADMIN. CODE § 134.600.
7. Based on the above Findings of Fact and Conclusions of Law, the procedure performed on November 11, 2003, was preauthorized and medically necessary.
8. Based on the above Findings of Fact and Conclusions of Law, Provider should be reimbursed \$1,372.84 for the disputed services at issue in this case.

ORDER

IT IS ORDERED THAT Carrier shall reimburse the Provider \$1,372.84 for the services at issue in this case as set out above.

SIGNED December 12, 2005.

**LILO D. POMERLEAU
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

