

**DOCKET NO. 453-05-8829.M5  
MDR NO. M5-05-2124-01**

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|--|---|--------------------------------|
| <b>ATLANTIC MUTUAL INSURANCE<br/>COMPANY,<br/>    Petitioner</b> | §<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§ | <b>BEFORE THE STATE OFFICE</b> |
| <b>VS.</b>   |   | <b>OF</b>                      |
| <b>BUENAVISTA WORKSKILLS,<br/>    Respondent</b>                 |   | <b>ADMINISTRATIVE HEARINGS</b> |

**DECISION AND ORDER**

Atlantic Mutual Insurance Company (Carrier) challenges an Independent Review Organization (IRO) decision concluding that Buenavista Workskills (Provider) was entitled to reimbursement for chronic pain management services provided to an injured worker (Claimant). Administrative Law Judge (ALJ) Gary Elkins convened and closed the hearing in this case on April 18, 2006. Carrier appeared and was represented by Attorney Steven Tipton. Despite being notified of the hearing before the State Office of Administrative Hearings (SOAH), Provider did not appear. Based on the evidence presented at hearing and as reflected in the Findings of Fact and Conclusions of Law, the ALJ concludes the disputed services were not medically necessary for the treatment of Claimant's injury. Consequently, Provider is not entitled to reimbursement.

**I. FINDINGS OF FACT**

1. Claimant suffered a compensable injury to her lower back and right knee in \_\_\_\_.
2. At the time of Claimant's injury, her employer held workers' compensation insurance coverage with Carrier.
3. Provider sought and obtained from Carrier preauthorization for a chronic pain management program to be provided five times per week for two weeks from November 13, 2003 through December 18, 2003.

4. As of April 5, 2004, Claimant had no need for chiropractic manipulations, physical therapy, or other aggressive treatment.
5. As of April 5, 2004, Claimant was able to return to work in a modified-duty capacity without the need for any treatment more aggressive than a home-based self-paced program and anti-inflammatory medication.
6. Provider participated in a chronic pain management program with Provider from April 9, 2004 through April 21, 2004, approximately four months after the proposed and preauthorized treatment period.
7. Carrier denied reimbursement for the pain management program.
8. In response to Carrier's denial of reimbursement, Provider sought medical dispute resolution.
9. The reviewing Independent Review Organization (IRO) concluded Provider was entitled to reimbursement for the disputed services.
10. In response to the IRO decision, Provider requested a hearing before the State Office of Administrative Hearings (SOAH).
11. Notice of the hearing was sent to the parties on September 14, 2005. The notice informed the parties of the date, time, and location of the hearing; the matters to be considered; the legal authority under which the hearing would be held; and the statutory provisions applicable to the matters to be considered.
12. The hearing convened and closed on April 18, 2006 before SOAH ALJ Gary Elkins.
13. The disputed services were provided at a time well beyond what was originally contemplated either in Provider's preauthorization request and in Carrier's preauthorization.

## **II. CONCLUSIONS OF LAW**

1. SOAH has jurisdiction over this proceeding pursuant to TEX. LAB. CODE ANN. §413.031(k) and TEX. GOV'T CODE ANN. ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§2001.051 and 2001.052.
3. The rules of the Texas Department of Insurance, Division of Workers' Compensation, at 28 TEX. ADMIN. CODE § 134.600(f)(2) and (f)(6), requires requests for preauthorization

to include the specific period of time requested to complete the treatments and the estimated date of the proposed healthcare.

4. Because the disputed medical services were provided outside the time period contemplated by the preauthorization request or the preauthorization granted by Carrier, they were not preauthorized by Carrier.
5. The disputed medical services were not medically necessary at the time they were provided. TEX. LAB. CODE ANN. §408.021.
6. Provider is not entitled to reimbursement for the disputed services.

**ORDER**

**IT IS ORDERED** that the reimbursement claim of Buenavista Workskills for the disputed chronic pain management program is denied.

**Signed June 8, 2006.**

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**GARY W. ELKINS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**