

**STATE OF VERMONT
DEPARTMENT OF LABOR**

Matthew Petrie

Opinion No. 16-22WC

v.

By: Beth A. DeBernardi
Administrative Law Judge

FairPoint Communications, Inc.

For: Michael A. Harrington
Commissioner

State File No. EE-51270

OPINION AND ORDER

Hearing held via Microsoft Teams on April 27, 2022

Record closed on July 20, 2022

APPEARANCES:

Vanessa B. Kittell, Esq., for Claimant
Krystn M. Perettine, Esq., for Defendant

ISSUE PRESENTED:

Are the proposed Euflexxa injections a reasonable medical treatment for Claimant's accepted July 16, 2012 right knee injury?

EXHIBITS:

Joint Medical Exhibit ("JME")
Preservation deposition of Andrew Myrtue, MD
Preservation deposition of Nolan Hurley, PA-C
Preservation deposition of John Siliski, MD

Claimant's Exhibit 1:	Printout of medical payments
Claimant's Exhibit 2:	Agreement for Permanent Partial Disability Benefits (Form 22)
Claimant's Exhibit 3:	Preauthorization Request (Form 7) dated June 4, 2019
Claimant's Exhibit 4:	Revised Formal Hearing Docket Referral dated May 26, 2021
Claimant's Exhibit 5:	Request for Interim Order dated February 20, 2020
Claimant's Exhibit 6:	Request for Interim Order dated July 10, 2020
Claimant's Exhibit 7:	Request for Interim Order dated September 1, 2020
Claimant's Exhibit 8:	<i>Curriculum vitae</i> of Andrew Myrtue, MD
Claimant's Exhibit 10:	Defendant's letter of engagement to John Siliski, MD
Claimant's Exhibit A:	Itemization of Claimant's costs
Claimant's Exhibit B:	Itemization of Claimant's attorney fees
Defendant's Exhibit A:	<i>Curriculum vitae</i> and file of John Siliski, MD

CLAIM:

Medical benefits pursuant to 21 V.S.A. § 640(a)
Costs and attorney fees pursuant to 21 V.S.A. § 678

FINDINGS OF FACT:

1. Claimant is a 51-year-old man who lives in Georgia, Vermont. Defendant is a communications services company. Claimant began working for Defendant's corporate predecessor in 1994, when he was 23 years old. For the first 18 months of his employment, he provided directory assistance. Since then, he has worked on Defendant's outdoor infrastructure as a splice-service technician. Claimant has worked as Defendant's employee for 28 years.

Claimant's Work Injury

2. On July 16, 2012, Claimant stepped off the rear platform of a bucket truck onto uneven ground and twisted his right knee. Defendant accepted his injury as compensable and began paying workers' compensation benefits accordingly.

Claimant's Prior Medical History Related to his Right Knee

3. The parties' dispute concerns Claimant's treating provider's recommendation for Euflexxa injections to treat osteoarthritis in his right knee. Defendant maintains that Claimant's need for Euflexxa injections is due to the pre-existing condition of his right knee, rather than the injury he sustained in July 2012. Accordingly, the following pre-injury medical history is relevant to this claim.
4. Claimant injured his right knee in a motorcycle crash when he was about 12 years old. At the time, his medical provider told him that he had a "torn ligament." (JME at P1-8). The ligament was not repaired at that time.
5. In June 1989, when Claimant was 18 years old, he broke his right femur when he crashed his motorcycle into a parked truck. (JME at P1-1). During his recovery, in November 1989, he had an episode of his right knee giving way. (JME at P1-4). Claimant's right knee gave way again in February 1990. (JME at P1-6).
6. In July 1990, Claimant underwent diagnostic arthroscopy on his right knee. The procedure identified chronic deficiency in his anterior cruciate ligament (ACL) and a large bucket handle tear of the meniscus. During the procedure, the surgeon removed the bucket handle tear, which constituted 75 percent of Claimant's meniscus. (JME at P1-11, P1-17 to P1-19). Claimant underwent ACL reconstruction surgery in April 1991. (JME at 3-7, P1-15).
7. In February 2008, Claimant slipped on ice at work. He sought treatment at Associates in Orthopedic Surgery in March 2008, complaining of right knee swelling and soreness. (JME at P2-7). The provider noted Claimant's history of ACL reconstruction and post-traumatic osteoarthritis, and an MRI study confirmed arthritis

in his knee joint. (JME at P2-6, P2-8). Claimant's provider attributed the majority of his symptoms to medial compartment arthritis; he did not think that Claimant's ACL graft insufficiency was a factor. (JME at P2-10, P2-26). In June 2008, Claimant received a series of Euflexxa injections to treat his right knee arthritis and reported that they were helpful. (JME at P2-11).

8. Claimant did not undergo any additional knee treatment until his July 16, 2012, twisting incident at work.

Claimant's Medical Course Following the July 16, 2012 Work Injury

9. Claimant sought medical treatment with physician assistant David Spence on July 17, 2012. PA Spence noted Claimant's symptoms of pain, swelling, instability and decreased range of motion, and he referred Claimant to orthopedics. (JME at 1-1). An MRI performed in August 2012 identified degenerative changes in the medial compartment of the right knee and ACL laxity. (JME at 3-6).
10. On September 21, 2012, Claimant underwent arthroscopic repair of his right knee performed by orthopedic surgeon Robert Beattie, MD. Dr. Beattie's medical record listed the pre-operative diagnosis as post-traumatic arthritis. Based on his surgical findings, Dr. Beattie also diagnosed Claimant with a medial meniscal tear, ACL deficiency, chondromalacia and a bone spur. (JME at 1-9). Dr. Beattie performed a partial medial meniscectomy, chondroplasty debridement and spur removal. (*Id.*)
11. On October 2, 2012, Dr. Beattie noted that Claimant was progressing well, but that he might need Euflexxa injections if his symptoms did not fully resolve. (JME at 1-15 to 1-16). On October 30, Dr. Beattie noted the degenerative changes in Claimant's knee and recommended Euflexxa injections. Claimant underwent a series of three injections in November 2012 and credibly testified that his knee felt good afterwards. (JME at 1-17 to 1-18, 3-17, 3-22).
12. At Defendant's request, Claimant underwent an independent medical examination with occupational medicine physician Austin Sumner, MD, in November 2013. (JME at 5-1 to 5-14). Dr. Sumner diagnosed Claimant with a medial meniscal tear and chondromalacia. (JME at 5-13). In his opinion, additional Euflexxa injections would be a reasonable palliative treatment for Claimant's knee condition. (JME at 5-13). Although Dr. Sumner also provided a permanent impairment rating, his report did not include any analysis addressing a causal relationship between Claimant's knee condition and his July 2012 knee injury.
13. At Claimant's request, he underwent an independent medical examination with occupational medicine physician Verne Backus, MD, in July 2016. (JME at 6-1 to 6-24). Dr. Backus diagnosed Claimant with a medial meniscal tear and moderate arthrosis of the medial compartment. In his opinion, both Claimant's ACL laxity and his loss of medial meniscus from the partial meniscectomy performed in September 2012, "which was on top of previous partial meniscectomy,"¹ increased his risk for

¹ See Finding of Fact No. 6 *supra*, concerning the removal of 75 percent of Claimant's meniscus prior to the July 2012 injury.

post-traumatic arthritic deterioration. (JME at 6-21). Dr. Backus assessed Claimant with a seven percent whole person impairment and offered his opinion that Euflexxa injections would be a medically reasonable palliative treatment for his knee condition. Dr. Backus' report did not include any specific analysis addressing a causal relationship between Claimant's knee condition and his July 2012 knee twisting incident beyond his statement that the partial meniscectomy performed in 2012 increased his risk for post-traumatic deterioration. (JME at 6-21). As Dr. Backus did not testify at the hearing, he did not have an opportunity to explain his opinion further.

14. Claimant saw Ross Thibodeau, PA-C, at Northwestern Medical Center in October 2018. PA Thibodeau identified the primary source of Claimant's symptoms as osteoarthritis and recommended Euflexxa injections to relieve his pain. (JME at 3-34).
15. In November 2018, Claimant received a three-shot series of Euflexxa injections in his knee, administered by Nolan Hurley, PA-C. (JME at 3-36, 3-39). Claimant found these injections helpful in reducing his pain and improving his function.

Requests for Additional Euflexxa Injections

16. On June 4, 2019, Claimant's treating provider, PA Hurley, completed a preauthorization request for a series of Euflexxa injections. *Claimant's Exhibit 3*. In response, Defendant ordered a medical records review from John Siliski, MD, and indicated that it would provide a further response to the preauthorization request by the July 19, 2019 deadline (45 days from the request date). *Claimant's Exhibit 3*. On July 12, 2019, Dr. Siliski offered his opinion that Claimant's need for Euflexxa injections was not related to his July 2012 work injury. (JME at 7-1 to 7-5). Defendant did not file a denial of the preauthorization request with the Department by the July 19 deadline, but it notified the provider that the treatment was not covered.²
17. On February 20, 2020, Claimant's counsel asked the Department to order the Euflexxa injections recommended in the June 4, 2019 preauthorization request on the grounds that the request was not denied in a timely manner. *Claimant's Exhibit 5*. At the same time, PA Hurley wrote a letter stating that Claimant needed Euflexxa injections to treat his right knee osteoarthritis. (JME 3-25). Defendant filed a formal denial (Form 2) of the original June 4, 2019 preauthorization request on March 9, 2020 and a denial of the February 20, 2020 letter request on March 4, 2020. *Claimant's Exhibit 4*.
18. On June 8, 2020, Claimant had his right knee evaluated by orthopedic physician Andrew Myrtue, MD. Claimant reported sharp pain in the inside of his knee and difficulty climbing and descending a ladder. (JME at 3-26). Dr. Myrtue diagnosed Claimant with post-traumatic right knee osteoarthritis and recommended Euflexxa injections. (JME at 3-28, 3-30). PA Hurley wrote a letter supporting Dr. Myrtue's recommendation for Euflexxa injections on July 10, 2020; in this letter, he related Claimant's knee symptoms to his 2012 work injury. *Claimant's Exhibit 6*. Defendant

² See PA Hurley's February 20, 2020 letter stating that the June 4, 2019 preauthorization request had been denied. (JME at 3-25).

denied this request on July 22, 2020, and Claimant has not received the injections. *Claimant's Exhibit 4.*

19. The Department's specialist held an informal conference on the preauthorization issue on September 1, 2020, and Claimant's counsel renewed the interim order request at that time. *Claimant's Exhibit 7.* On May 26, 2021, the specialist declined to issue an interim order and referred the dispute to the formal hearing docket. *Claimant's Exhibit 4.*

Claimant's Current Status

20. Claimant continues to experience pain in his right knee and would like to undergo a series of Euflexxa injections, which reduce his pain and improve his function for a period of about six months.

Expert Medical Testimony

21. The parties presented expert medical testimony as to the reasonableness of Euflexxa injections for Claimant's July 16, 2012 knee injury.

(a) Dr. Myrtue

22. Andrew Myrtue, MD, is a board-certified orthopedic surgeon and the medical director of orthopedic surgery at Northwestern Medical Center in St. Albans, Vermont. In 1997, he obtained his medical degree from the Uniformed Services University in Bethesda, Maryland, and he completed a residency in orthopedic surgery at Dartmouth-Hitchcock Medical Center in 2004.
23. Claimant was a regular patient of Northwestern Medical Center's orthopedic practice, and Dr. Myrtue saw him as a treating provider on one occasion, on June 8, 2020. During that office visit, Claimant reported intermittent but worsening right knee pain. Dr. Myrtue examined Claimant's knee; he also performed a range of motion exam and a series of provocative maneuvers to check for instability and pain. Based on his examination and his review of Claimant's 2018 x-rays, Dr. Myrtue concluded that Claimant had post-traumatic osteoarthritis in his right knee.
24. Dr. Myrtue explained that Euflexxa injections are a treatment for osteoarthritis. In his opinion, based on his knowledge, training and experience as an orthopedic surgeon, Euflexxa injections are a medically necessary treatment for Claimant's right knee osteoarthritis. However, Dr. Myrtue could not ascribe any particular incident to Claimant's knee condition and offered no opinion stating that his need for Euflexxa was causally related to the July 16, 2012 twisting incident.
25. More broadly, Dr. Myrtue did not review Claimant's medical records from 2008 or earlier. He did not know about Claimant's childhood motorcycle accident, nor was he aware that Claimant was diagnosed with arthritis and treated with Euflexxa injections in 2008. Further, Dr. Myrtue testified that although Claimant's 2012 work incident

led to a meniscal tear and partial meniscectomy, he did not know whether that condition caused his osteoarthritis.

26. I find Dr. Myrtue's opinion that Euflexxa injections are a medically necessary treatment for Claimant's osteoarthritis well supported by his examination of Claimant in his capacity as a qualified treating provider. However, Dr. Myrtue offered no opinion to support a causal relationship between Claimant's need for Euflexxa injections and his July 2012 work injury.

(b) PA Hurley

27. Nolan Hurley, PA-C, holds a master's degree in physician assistant studies. He has worked as a licensed physician assistant in the orthopedics department at Northwestern Medical Center in St. Albans, Vermont for seven years. PA Hurley's practice consists of evaluating patients, performing therapeutic injections and other procedures, and assisting in the operating room.
28. PA Hurley's treatment of Claimant consisted of three office visits in November 2018, when he injected Claimant with Euflexxa to treat the osteoarthritis in his right knee. PA Hurley credibly explained that Euflexxa is a lubricant injection that treats osteoarthritis pain.
29. PA Hurley did not examine, diagnose, or treat Claimant prior to the injection series. Rather, a fellow physician assistant, PA Thibodeau, diagnosed Claimant with osteoarthritis and recommended the injections. PA Hurley's role was limited to administering the injections recommended by PA Thibodeau.
30. Based on his administration of Euflexxa to Claimant in November 2018 and his review of the medical records, PA Hurley agreed with PA Thibodeau's diagnosis of post-traumatic osteoarthritis. However, PA Hurley offered no opinion as to whether Claimant's right knee osteoarthritis was causally related to his July 2012 knee twisting incident. PA Hurley credibly testified that he was only asked to perform injections based on another provider's diagnosis of osteoarthritis; he was never asked to determine whether Claimant's osteoarthritis was work-related.
31. When Claimant contacted PA Hurley's office in June 2019 seeking another series of Euflexxa injections, PA Hurley submitted a preauthorization request to Defendant. He credibly explained that medical providers submit preauthorization requests to whichever insurer the patient designates and that it is the insurer's responsibility to determine whether the procedure is covered. PA Hurley credibly testified that his submission of the preauthorization request on June 4, 2019 was based on his conclusion that the injections were a medically necessary treatment, but submitting the request specifically to Defendant was not an indication that the Euflexxa injections were work-related.
32. Based on his training and experience, and on his treating relationship with Claimant, PA Hurley's opinion that Euflexxa injections are a medically necessary treatment for

Claimant's osteoarthritis is persuasive. However, he offered no opinion that Claimant's osteoarthritis was causally related to the July 2012 knee twisting incident.

33. Finally, Claimant cites to a letter that PA Hurley wrote on July 10, 2020, advocating for Euflexxa injections after Defendant had denied the injections several times. (JME at 3-31). PA Hurley wrote in the letter that Claimant's osteoarthritis had advanced as a result of his 2012 work injury. However, the letter provided no analysis or basis for the statement relating Claimant's need for Euflexxa to the July 2012 twisting incident. Further, PA Hurley offered no testimony about the mechanism of injury or how Claimant's knee twisting in July 2012 affected his pre-existing osteoarthritis, if at all. Rather, he testified that he could not offer an opinion that the need for Euflexxa was causally related to the twisting incident. Accordingly, I find that the statement in the July 10, 2020 letter lacks objective support and does not override PA Hurley's thoughtful and credible hearing testimony.

(c) Dr. Siliski

34. John Siliski, MD, is a board-certified orthopedic surgeon at the Massachusetts General Hospital in Boston. He obtained his medical degree at Harvard Medical School in 1977 and completed his residency at the Harvard Combined Orthopedic Residency Program in 1982. Dr. Siliski has performed knee surgeries for 40 years and currently performs about 450 knee and hip surgeries per year.
35. Dr. Siliski did not examine Claimant, but he performed a medical records review in July 2019, including records dating back to 1989 and all records related to the 2012 work injury and subsequent treatment. (JME at 7-2 to 7-5). In his opinion, the condition for which Euflexxa injections are currently recommended is not causally related to the July 2012 incident where Claimant stepped off the truck bumper and twisted his knee. Instead, the proposed injections are to treat Claimant's pre-existing and longstanding right knee arthritis, which is causally unrelated to the July 2012 work incident. Dr. Siliski set forth several bases for his opinion.
36. First, Dr. Siliski's review of the August 2012 MRI and the September 2012 operative report for Claimant's right knee arthroscopy did not find any evidence of a significant right knee injury on July 16, 2012.
37. Second, Dr. Siliski noted Claimant's right knee meniscectomy in 1990, during which the surgeon removed 75 percent of Claimant's meniscus. He explained that the remaining 25 percent of the meniscus, which he called the "rim," was not sufficient to perform any of the functions that a meniscus normally performs. Dr. Siliski also noted Claimant's 1991 ACL reconstruction. He explained that, by 2012, Claimant was suffering from ACL laxity, as documented on the August 2012 MRI and during the September 2012 arthroscopy, but that there was no evidence of any additional damage to the ACL caused by the July 2012 twisting injury. Dr. Siliski offered his opinion that ACL laxity is a significant risk factor for the development of both arthritis and meniscal tearing because a lax ACL does not provide normal stability and mechanics to the knee. Further, the removal of 75 percent of Claimant's meniscus is also a risk

factor for arthritis. However, both of these conditions pre-dated the July 2012 twisting incident and were unrelated to that incident.

38. Third, Dr. Siliski noted that Claimant's medical provider documented moderate right knee arthritis in 2008 and treated him with Euflexxa injections at that time. Then in 2012, one month after the twisting incident, an MRI revealed significant arthritis with areas of bare bone in the medial compartment of Claimant's knee. Dr. Siliski explained that arthritis develops over a period of years and that it would be impossible for the bare bone arthritis seen in August 2012 to have developed since the work incident a month before. Accordingly, Dr. Siliski concluded that Claimant had pre-existing arthritis in his right knee that required significant treatment, including Euflexxa injections, prior to and independent of the July 16, 2012 incident. In his opinion, Claimant's providers would have recommended additional injections in 2019 whether Claimant twisted his knee in 2012 or not.
39. Finally, in Dr. Siliski's opinion, the July 2012 incident neither caused Claimant's current knee condition nor aggravated or contributed to his condition and need for Euflexxa injections. Dr. Siliski explained that any additional tearing of Claimant's meniscus documented in 2012 was most likely degenerative and clinically insignificant, as the small remnant of meniscus left after Claimant's 1990 meniscus removal surgery was not enough to provide any knee functionality. Further, the 2012 MRI findings documented the deterioration of Claimant's ACL graft over time, as is common, but there was no evidence that Claimant further injured or tore his reconstructed ACL in 2012.
40. Based on Dr. Siliski's thorough review of the medical records, his training and experience as an orthopedic surgeon, and his objective and detailed analysis, I find his opinions concerning the causal connection between Claimant's 2012 work incident and his need for Euflexxa injections to be clear, well supported and persuasive.

CONCLUSIONS OF LAW:

Reasonableness of Proposed Medical Treatment

1. Vermont's workers' compensation statute obligates an employer to furnish "reasonable" medical services and supplies to an employee who has sustained a compensable work-related injury. 21 V.S.A. § 640(a). A treatment can be unreasonable either because it is not medically necessary or because it is not causally related to the compensable injury. *Baraw v. F.R. Lafayette, Inc.*, Opinion No. 01-10WC (January 20, 2010); *Brodeur v. Energizer Battery Mfg., Inc.*, Opinion No. 06-14WC (April 2, 2014). In this case, the parties do not dispute that the proposed series of Euflexxa injections is a medically necessary treatment for Claimant's osteoarthritis. Their dispute concerns whether the treatment is causally related to Claimant's July 16, 2012 accepted right knee injury.
2. Where a claimant's preexisting condition is a progressively degenerative disease, the test for determining work-related causation is "whether, due to a work injury or the work environment, 'the disability came upon the claimant earlier than otherwise

would have occurred.”” *Stannard v. Stannard Co.*, 2003 VT 52, ¶ 11, quoting *Jackson v. True Temper Corp.*, 151 Vt. 592, 596 (1989). Mere continuation or exacerbation of symptoms, without a worsening of the underlying disability, does not establish causation. *Stannard, supra*, ¶ 11.

3. The claimant has the burden of proving that a proposed medical treatment is reasonable under 21 V.S.A. § 640(a). *Merriam v. Bennington Convalescent Center*, Opinion No. 55-06 (January 2, 2007); *Baraw, supra*. Defendant here has denied payment for Euflexxa injections recommended by Claimant’s treating provider in 2019 and 2020. Thus, Claimant has the burden of establishing that the proposed treatment is reasonable.

Expert Medical Opinions

4. Where the causal connection between employment and injury is obscure, and a layperson could have no well-grounded opinion as to causation, expert medical testimony is necessary. *Lapan v. Berno’s Inc.*, 137 Vt. 393, 395-96 (1979).
5. Claimant offered testimony from two treating providers, Dr. Myrtue and PA Hurley. However, neither expert offered an opinion that Claimant’s need for Euflexxa injections was causally related to his July 16, 2012 accepted work injury.
6. The record also includes Dr. Backus’ written report from July 2016. Dr. Backus wrote that Claimant’s second meniscus surgery in September 2012 increased his risk for arthritic deterioration in his right knee. However, Dr. Backus’ report did not state an opinion to a reasonable degree of medical certainty that Claimant’s right knee osteoarthritis was actually worsened by the July 2012 twisting incident, nor did he testify at the hearing to explain the statements made in his report.
7. Claimant has the burden of proving a causal connection between his July 16, 2012 work injury and the proposed Euflexxa injections. None of his medical experts offered an opinion that his need for Euflexxa injections was causally related to his July 16, 2012 work injury. Accordingly, I conclude that Claimant has failed to meet his burden of proof, without having to weigh Dr. Siliski’s opinion that the 2012 twisting incident did not cause or accelerate Claimant’s knee arthritis. *See Lucas v. Carl’s Equipment Inc.*, Opinion No. 05-19WC (March 15, 2019), citing *Meau v. The Howard Center, Inc.*, Opinion No. 01-14WC (January 24, 2014) (because the claimant has the burden of proof, it is claimant’s expert’s credibility that matter most).
8. I therefore conclude that the proposed Euflexxa injections are not reasonable medical treatment for Claimant’s July 16, 2012 work-related injury, as provided in 21 V.S.A. § 640(a).

Compliance with Workers’ Compensation Rule 7

9. In the alternative, Claimant contends that Defendant should pay for the Euflexxa injections recommended in June 2019 by operation of law. Workers’ Compensation Rule 7.1100 provides in relevant part:

An injured worker or treating medical provider may submit a request to an employer or insurance carrier that a proposed medical treatment or diagnostic procedure be preauthorized. 21 V.S.A. § 640b. The request must be in writing, and must be accompanied by written documentation supporting both the medical necessity of the proposed treatment or procedure and its causal relationship to the injured worker's compensable injury or condition. . . .

10. Upon receiving such a request, the employer or carrier has 14 days under the workers' compensation statute to either authorize the treatment, deny the treatment, or schedule an examination or medical records review. *See* 21 V.S.A. § 640b(a); Workers' Compensation Rule 7.1200. The statute further provides that, based on the examination or review, the insurer shall authorize or deny the treatment and notify the Department and the injured worker of the decision within 45 days of the request for preauthorization. 21 V.S.A. § 640b(a)(3); Workers' Compensation Rule 7.1300.
11. In this case, Claimant's treating provider completed a preauthorization request on June 4, 2019, and Defendant scheduled a medical records review with Dr. Siliski. Dr. Siliski provided a report on July 12, 2019 that did not support a causal relationship between the requested treatment and Claimant's July 2012 work injury. Therefore, under 21 V.S.A. § 640b(a)(3), Defendant had until July 19, 2019 (45 days) in which to notify the Department and Claimant that it was denying the proposed treatment. Although Defendant told the provider that it was not accepting the proposed treatment, it failed to file a Form 2 Denial in a timely manner. Rather, it formally denied the June 4, 2019 request on March 9, 2020.
12. In the event that an insurer fails to authorize or deny the requested treatment within the timeframes set forth in the statute, the injured worker may request an order authorizing the treatment. In such cases, the Department shall issue an order that the treatment is authorized by operation of law, except under several conditions. *See* 21 V.S.A. § 640b(b); Workers' Compensation Rule 7.1400.
13. Workers' Compensation Rule 7.1420 sets forth the conditions under which the Department shall issue an order authorizing the treatment by operation of law. It provides:

Unless compensability of the injury or condition for which the treatment or diagnostic procedure is sought has been denied or disputed, and provided the initial request for preauthorization conforms to the requirements of Rule 7.1100, absent extraordinary circumstances issuance of an interim order shall be presumed appropriate in all claims in which the employer or insurance carrier has failed to respond within the required time period.
14. In this case, Defendant accepted Claimant's July 16, 2012 injury as compensable. Thus, the injury for which the treatment is sought has not been denied or disputed.

15. However, the rule also requires that the initial request for preauthorization conform to the requirements of Rule 7.1100. Those requirements are that the request be in writing and that it be accompanied by written documentation supporting both the medical necessity of the proposed treatment and its causal relationship to the injured worker's compensable injury. Here, Claimant's provider completed the preauthorization request on June 4, 2019, but Claimant has submitted no evidence establishing that the June 4, 2019 request was accompanied by written documentation supporting the causal relationship between the proposed treatment and Claimant's compensable injury. Accordingly, I conclude that the June 4, 2019 preauthorization request does not meet the criteria for an order by operation of law under Workers' Compensation Rule 7.1420.

ORDER:

Based on the above Findings of Fact and Conclusions of Law, Claimant's claim for medical benefits for the proposed series of Euflexxa injections is hereby **DENIED**.

DATED at Montpelier, Vermont this 9th day of August 2022.

Michael A. Harrington
Commissioner

Appeal:

Within 30 days after copies of this opinion have been mailed, either party may appeal questions of fact or mixed questions of law and fact to a superior court or questions of law to the Vermont Supreme Court. 21 V.S.A. §§ 670, 672.