

STATE OFFICE OF ADMINISTRATIVE HEARINGS
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DOCKET NO. 453-03-1775.M5
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A. KENT RICE, D.C.,	§	BEFORE THE STATE OFFICE
<i>Petitioner</i>	§	
	§	
V.	§	OF
	§	
INSURANCE COMPANY OF THE	§	
STATE OF PENNSYLVANIA,	§	
<i>Respondent</i>	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

This case involves a dispute over the decision by Insurance Company of the State of Pennsylvania (Carrier) not to reimburse A. Kent Rice, D.C., (Provider or Dr. Rice) \$6,247 for chiropractic treatments provided to workers' compensation claimant ___ (Claimant) from September 24, 2001 through March 21, 2002. Petitioner appealed the decision of the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (Commission) denying reimbursement. In this decision, the Administrative Law Judge (ALJ) concludes Provider has not shown by preponderance of the evidence that the disputed treatments were medically necessary for Claimant's compensable injury and, therefore, Carrier is not liable to reimburse Provider for it.

I. BACKGROUND FACTS

Claimant injured her back on ___, during the course of her job with ___. In particular, Claimant slipped and fell on a wet floor, landing on her left knee and injuring her lower back. Claimant continued to work for a month following her injury. Beginning on October 27, 2000, Claimant was on total temporary disability, returning to work on a gradual basis on January 4, 2001. During this time she received extensive chiropractic treatment with manipulation, diathermy, intersegmental traction, and therapeutic procedures. She also received at least two epidural steroid injections.

On ___, Claimant suffered a severe reinjury. She was again taken off work and began frequent chiropractic treatments. Upon her examination by James F. Hood, M.D., on August 14,

2001, Claimant was determined to be at maximum medical improvement (MMI) with a 2 percent whole body impairment. She returned to work, light duty, on September 28, 2001.

Provider billed Carrier for all treatments. Carrier denied reimbursement for 25 treatments provided between September 24, 2001 through March 21, 2002, asserting the treatments were not medically necessary in light of Claimant's extensive prior treatments and the lack of medical benefit to Claimant from continued treatments. After requesting review by an independent review organization, MRD determined that the chiropractic treatments in issue were not medically necessary and denied Provider's request for reimbursement. Provider then appealed, requesting a hearing before the State Office of Administrative Hearings.

II. ANALYSIS

The sole issue in this case is whether the chiropractic care provided between September 24, 2001 and March 21, 2002, was medically necessary to treat Claimant's work-related injury of _____. Provider testified that the treatments were medically necessary as evidenced by Claimant's improvement and return to work. He disagreed with the MRD finding that there was no change in Claimant's condition noting that her frequency of treatment, limitations on range of motion, and pain levels were all reduced by his care.

According to Provider, Claimant had returned to work and was much better prior to a severe reinjury on _____. In Provider's opinion, the reinjury was much worse than the initial injury. Provider testified that the chiropractic treatments following the reinjury were beneficial to Claimant, noting that she returned to work on September 24, 2001. Provider also noted that Claimant saw David Strausser, Orthopaedic Surgeon, on July 27, 2001, who indicated that her pain was most likely discogenic and recommended she continue with the conservative management with Provider.¹

Carrier called James F. Hood, M. D., who examined Claimant on August 14, 2001. Dr. Hood found that Claimant was at MMI at the time of his examination, noting that she suffered from nothing more than a lumbar sprain at the time of her initial injury. Dr. Hood opined that her continued symptoms resulted from a combination of naturally progressive degenerative disc disease

¹Records from Dr. Strausser were not offered into evidence.

worsened by her obesity and general deconditioning. Dr. Hood performed a functional capacity evaluation (FCE) on Claimant and found that she was fit to return to medium level work. He stated that the work limitations indicated on Claimant's FCE were related entirely to her obesity, life style, and general life-long deconditioning and specifically not to the effects of the sprain event of September 2000.

After considering the arguments and evidence presented, the ALJ concludes that Provider failed to establish by a preponderance of the evidence that the treatments in issue were medically necessary to treat the compensable injury. Rather, the evidence suggests the treatments may be related to conditions other than the compensable injury, including degenerative disc disease, obesity, and general deconditioning. Of significant importance to the ALJ are the x-rays taken on October 27, 2000, demonstrating degenerative disc and joint disease of Claimant's spine. Furthermore, little information is provided about Claimant's second injury, making it impossible to determine whether this injury was related to the compensable injury or the other factors suggested by Dr. Hood. Finally, by the date of the first denial of payment, Claimant had received 12 months of chiropractic treatment, including extensive care for the reinjury; had performed satisfactorily on an FCE; was determined to be at MMI; and had returned to work for a second time. Provider failed to prove that continued treatment was necessary to treat the compensable injury. Accordingly, Carrier is not required to reimburse Dr. Rice. In support of this determination, the ALJ makes the following findings of fact and conclusions of law.

III. FINDINGS OF FACT

1. ____ (Claimant) suffered a compensable injury to her back in ____ while performing work-related duties for her employer, ____.
2. At the time of Claimant's injury, Insurance Company of the State of Pennsylvania (Carrier) was the workers' compensation insurance carrier for Claimant's employer.
3. On October 27, 2000, Claimant began seeing A. Kent Rice, D.C. (Provider or Dr. Rice) for chiropractic manipulations and related treatments for Claimant's back injury.
4. As evidenced by x-rays taken on October 27, 2000, Claimant suffered from naturally progressive degenerative disc and joint disease of her spine.

5. Claimant reached maximum medical improvement in August 2001.
6. Claimant saw Provider for 25 visits between September 24, 2001 and March 21, 2002, receiving chiropractic manipulations and related therapy.

7. Carrier denied reimbursement of \$6, 247 for the treatments provided on 25 dates of service between September 24, 2001 and March 21, 2002, asserting the treatments were not medically necessary treatment for Claimant's compensable injury.
8. Provider filed a request for medical dispute resolution with the Medical Review Division (MRD) of the Texas Workers' Compensation Commission.
9. On December 10, 2002, MRD denied Provider's request to order reimbursement, finding that the treatments in question were not medically necessary.
10. MRD mailed a copy of the decision to Provider on December 11, 2002.
11. On December 16, 2002, Provider filed a request for hearing before the State Office of Administrative Hearings (SOAH).
12. Notice of the hearing was sent on January 21, 2003.
13. A hearing was conducted by SOAH, before Administrative Law Judge Tommy L. Broyles, on March 11, 2003, July 1, 2003 and September 23, 2003. John Fundis appeared on behalf of the Carrier. Provider appeared by telephone and represented himself. The Commission did not appear nor participate. The record remained open for further evidence until October 3, 2003, when the parties notified the ALJ of their desire for a decision based on the record previously made.
14. The treatments provided by Dr. Rice between September 24, 2001 and March 21, 2002, have not been shown to be medically necessary treatment of Claimant's compensable injury of _____.

IV. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a decision and order, pursuant to §413.031 of the Act and TEX. GOV'T CODE ANN. ch. 2003.
2. Provider timely filed its request for a hearing, as specified in 28 TEX. ADMIN. CODE § 148.3.
3. Proper and timely notice of the hearing was effected upon the parties according to TEX. GOV'T CODE § 2001.052 and 28 TEX. ADMIN. CODE § 148.4.
4. Provider has the burden of proof in this matter by a preponderance of the evidence, pursuant to TEX. LAB. CODE ANN. § 413.031 and 28 TEX. ADMIN. CODE §148.21(h).
5. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 28 TEX. ADMIN. CODE ch. 148.
6. Provider failed to establish by a preponderance of the evidence that the treatments provided by Dr. Rice between September 24, 2001 and March 21, 2002, were medically necessary for the treatment of Claimant's work-related injury.
7. Provider's request for reimbursement should be denied.

ORDER

IT IS ORDERED that A. Kent Rice, D.C. is not entitled to reimbursement from Insurance Company of the State of Pennsylvania for the treatments provided to claimant ___ between September 24, 2001 and March 21, 2002.

Signed December 2, 2003.

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