

SUHAIL S. AL-S AHLI, DC,  
*Petitioner*

V.

GREAT AMERICAN ALLIANCE  
INSURANCE COMPANY,  
*Respondent*

§  
§  
§  
§  
§  
§  
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**DECISION AND ORDER**

This case involves a dispute over the decision by Great American Alliance Insurance Company (Carrier) not to reimburse Dr. Suhail S. Al-Sahli (Provider or Dr. Al-Sahli) for chiropractic treatment provided to workers' compensation claimant \_\_\_ (Claimant). The amount in dispute is \$2,460.00, and the Provider has appealed the decision of the Independent Review Organization (IRO) denying reimbursement of this amount. In this decision, the Administrative Law Judge (ALJ) concludes the disputed treatment was not medically necessary for Claimant's compensable injury, and therefore, Carrier is not liable to reimburse Provider for it.

**I. Background Facts**

On \_\_\_, during the course of his job with \_\_\_, \_\_\_ was injured when a "4X4" fell across his left foot causing a fracture of the distal phalange of the left great toe. The initial treating physicians, Dr. F. J. DelCastillo and Dr. Max Roth, recommended pain medication, ice packs, and modified duty work status. After the Claimant's first and subsequent following-up visit, he became verbally abusive and requested referral to another physician. The second treating physician, Dr. A. R. Garcia, advised continued off work status, wearing steel toed boots, and referred the Claimant to Dr. S. F. Hartley, a podiatrist. In November, Dr. Hartley indicated the Claimant was at maximum medical improvement (MMI) and able to return to work in December 2001. In March 2002, an evaluation of MMI status was performed by Anthony LaMarra, DPM, at the request of the Texas Workers' Compensation Commission (TWCC). Dr. LaMarra found that Claimant exhibited severe traumatic arthritis of the interphalangeal (IP) joint, was developing a deformed nail, and needed corrective surgery. As such, Dr. LaMarra opined that Claimant was not considered at MMI unless he rejected surgery.

In April 2002, Claimant initiated the services of Dr. Al-Sahli, a chiropractor. Dr. Al-Sahli recommended cryotherapy, electric stimulation, ultrasound, and joint mobilization with rehabilitation exercises approximately two to three times per week. On April 24, 2002, Dr. Al-Sahli ordered an MRI (magnetic resonance imaging). The MRI was conducted by Dr. J. S. Lee, M.D. and revealed soft tissue edema and tendonitis. No fracture was reported. Dr. Al-Sahli treated the Claimant from April 12, 2002, until June 7, 2002, and billed the Carrier \$2046.00 for his services. The Carrier denied payment of the treatment as medically unnecessary.

## II. Analysis

The sole issue in this case is whether the services provided April 12, 2002, through June 7, 2002, were medically necessary to treat Claimant's work-related injury of \_\_\_\_\_. After considering the evidence, the ALJ concludes that they were not.

Exhibits provided by both Carrier and Dr. Al-Sahli provided a history of the Claimant's care. It is well established that the Claimant was seen by numerous healthcare professionals prior to his treatment by Dr. Al-Sahli. Also noted was Dr. Hartley's determination of a December 2001 MMI, and Dr. LaMarra's assessment that Claimant had reached MMI at the time of his review on July 3, 2002, unless Claimant wanted surgical care for the arthritis of his toe.

After his consultations with Drs. Hartley and LaMarra, Claimant began seeing Dr. Al-Sahli in April 2002. At the Carrier's request in May 2002, a utilization record review was completed by Dr. Michael B. Simpson, a Board Certified Orthopaedic Surgeon, who issued a Physician Advisory Report on May 5, 2002. Dr. Simpson rendered an opinion that agreed with Dr. LaMarra's assessment that if arthritis was found to be present in the left hallux, surgical treatment in the form of an arthrodosis of the IP joint was a practicable solution. Dr. Simpson further opined no matter what course of treatment was pursued, there appeared "no need for therapy, rehabilitation (including active/passive modalities), work hardening, or chiropractic treatment" and that there did not appear any supportive reason for the change of treating physician to chiropractic care.

At the request of Dr. Al-Sahli, the Medical Review Division (MRD) requested a peer review by an Independent Review Organization (IRO) for determination of the medical necessity of the Claimant's care. The IRO determined that Claimant reached MMI, as stated by Dr. Hartley, in December 2001, and no further formal supervised healthcare services were reasonable or necessary. Further, the documentation provided by Dr. Al-Sahli, including Dr. Lee's radiology report of April 2002, did not substantiate the medical necessity for chiropractic care when considering the Claimant's original diagnosis of the distal phalanx fracture of the left hallux. The IRO concluded that the services provided by Dr. Al-Sahli, especially the utilization of passive therapy modalities for injuries that occurred seven months before, were not medically necessary.

After considering the entirety of the evidentiary record, the ALJ finds that the preponderance of the evidence establishes that the treatments in issue were not medically necessary. The utilization review conducted by Dr. Simpson, the assessments by Dr. Hartley and Dr. LaMarra, the MRI findings, and IRO review substantiate that the chiropractic care was not medically necessary. The only potential treatment suggested for the Claimant, and subsequently performed, involved fusion of the IP joint.

Therefore, because the ALJ concludes that the treatments provided by Dr. Al-Sahli were not medically necessary treatment of Claimant's compensable injury, Carrier is not required to reimburse him for them. 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 his left great toe in \_\_\_\_\_ while performing work-related duties for his employer, \_\_\_\_\_.

2. At the time of Claimant's injury, Great American Alliance Insurance Company (Carrier) was the workers' compensation insurance carrier for Claimant's employer.
3. Claimant suffered a fracture of the distal phalange of the great toe .
4. Without a physician referral, Claimant sought chiropractic care from Dr. Al-Sahli in April 2002.
5. Dr. Al-Sahli provided the chiropractic care to Claimant beginning April 12, 2002, through June 7, 2002, consisting of: cryotherapy, electric stimulation, ultrasound and Joint Mobilization with rehabilitation exercises.
6. Dr. Al-Sahli billed the Carrier \$2,460.00 for his April 12, 2002, through June 7, 2002, services.
7. Carrier denied reimbursement for the treatments provided by Dr. Al-Sahli, asserting the treatments were not medically necessary treatment for Claimant's compensable injury.
8. Provider filed a request for medical dispute resolution with the Texas Workers' Compensation Commission.
9. On April 28, 2003, the independent medical review agreed with Carrier's determination that the services provided from April 12, 2002, through June 7, 2002, were not medically necessary.
10. MRD mailed a copy of the decision on June 16, 2003.
11. On June 19, 2003, Provider filed a request for hearing before the State Office of Administrative Hearings (SOAH).
12. Notice of the hearing was sent on July 22, 2003.
13. A hearing was conducted by the State Office of Administrative Hearings (SOAH) before Administrative Law Judge Tommy L. Broyles, on September 18, 2003. Steve Tipton, attorney, appeared on behalf of the Carrier. Provider appeared in person and represented himself. The Commission did not appear nor participate. The hearing adjourned and the record closed on that same day.
14. There was no need for therapy, rehabilitation (including active/passive modalities) or chiropractic treatment at the time Dr. Al-Sahli provided chiropractic care.
15. The treatments provided by Dr. Al-Sahli from April 12, 2002, through June 7, 2002, were not medically necessary treatments 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. Carrier established by a preponderance of the evidence that the treatments provided by Dr Al-Sahli from April 12, 2002, through June 7, 2002, were not medically necessary for the treatment of Claimant's compensable injury.
7. Provider's request for reimbursement should be denied.

#### **ORDER**

**IT IS ORDERED** that Dr. Suhail S. Al-Sahli is not entitled to reimbursement from Great American Alliance Company for the treatments provided to claimant \_\_\_\_ from April 12, 2002, through June 7, 2002, and his request for reimbursement is denied.

**Signed November 10, 2003.**

---

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