

SOAH DOCKET NO. 453-04-1837M5R

TEXAS MUTUAL INSURANCE COMPANY, Petitioner	· · · · · · · · ·	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
V.		
CENTRAL DALLAS REHAB, Respondent		

DECISION AND ORDER

I. DISCUSSION

Texas Mutual Insurance Company, (Petitioner) requested a hearing following a November 12, 2003 Decision of the Texas Workers' Compensation Commission (Commission). The Commission, relying upon a May 27, 2003 decision of Independent Review Incorporated, an Independent Review Organization (IRO), authorized reimbursement for chiropractic services provided by Central Dallas Rehab (Respondent) to injured worker ___ (Claimant) from February 7, 2002, through April 23, 2002, and denied reimbursement for chiropractic services provided by Respondent to Claimant from April 24, 2002, through September 23, 2002. Respondent did not request a hearing on the denial of reimbursement for the April 24 to September 23, 2002 period. This Decision and Order will only address the February 7, 2002, through April 23, 2002 chiropractic services.

The amount in dispute is \$8,485.00.¹ After considering the evidence and arguments of the parties, the Administrative Law Judge (ALJ) concludes that the chiropractic services provided by Respondent from February 7, 2002, through April 23, 2002, were reasonable and medically necessary.

The parties prefiled all exhibits and testimony. The hearing convened on May 6, 2004, with State Office of Administrative Hearings (SOAH) ALJ Howard S. Seitzman presiding. Katie Kidd represented Petitioner and Scott Hilliard represented Respondent. Following conclusion of closing arguments, the parties agreed to file a stipulation of the amount in dispute. The parties filed the stipulation on May 11, 2004, and the record closed that day. Neither party objected to notice or jurisdiction.

Claimant suffered a work-related injury to his back on ___, while lifting a heavy object. After being treated that same day at Concentra Medical Centers (Concentra) for a lumbar strain, Claimant returned to work and continued working until January 17, 2002, when the injury was aggravated. From the date of his injury until February 1, 2002, Claimant continued treatment at

¹ The parties filed a stipulation on May 11, 2004.

Concentra and with other health care providers. Claimant began treating with Respondent on February 1, 2002, with Ted Krejci, D.C., as the treating professional. Respondent diagnosed lumbar disc disorder. In addition to billing for office visits, Respondent billed Petitioner for treatment consisting of therapeutic exercises, manipulation and testing.

A March 5, 2002 MRI revealed a herniated disc at L4-5. James E. Laughlin, D.O., examined Claimant on March 18, 2002, and recommended lumbar epidural steroid injections (ESIs). He also recommended continuing conservative care until and while the ESI's are being done. Dr. Laughlin noted on April 1, 2002, that preauthorization for the ESIs had been requested. The first ESI occurred after April 23, 2002.

David Alvarado, D.C., a witness for Petitioner, contended that when the March 5 MRI showed the disc had protruded into the spinal canal and was pressing against the nerve roots in the foramen, manipulative procedures should have ceased. According to Dr. Alvarado, that condition will not respond to conservative care. He contends Claimant should have been immediately referred to an orthopedic surgeon. Dr. Alvarado acknowledged that, prior to resorting to surgery, it is reasonable to attempt a trial of ESIs. Dr. Alvarado also acknowledged that combining manipulation with ESIs is reasonable and appropriate.

Four to six weeks of conservative care by Respondent was not unreasonable. Attempting to avoid surgery by use of ESIs was reasonable. Continuing conservative care while awaiting preauthorization for the ESIs was reasonable.

Petitioner had the burden of proof. Petitioner failed to prove by a preponderance of the evidence that the chiropractic services provided to Claimant from February 7, 2002, through April 23, 2002, were not reasonable and medically necessary. Respondent is entitled to reimbursement for chiropractic services provided Claimant between February 7, 2002, and April 23, 2002.

II. FINDINGS OF FACT

1. ____ (Claimant) suffered a work-related injury on ____.
2. After being treated that same day at Concentra Medical Centers (Concentra) for a lumbar strain, Claimant returned to work and continued working until January 17, 2002, when the injury was aggravated.
3. From the date of his injury until February 1, 2002, Claimant continued treatment at Concentra and with other health care providers.
4. Claimant began treating with Central Dallas Rehab (Respondent) on February 1, 2002, with Ted Krejci, D.C., as the treating professional.
5. Respondent diagnosed lumbar disc disorder.

6. In addition to billing for office visits, Respondent billed Texas Mutual Insurance Company (Petitioner) for treatment consisting of therapeutic exercises, manipulation and testing.
7. A March 5, 2002 MRI revealed a herniated disc at L4-5.
8. James E. Laughlin, D.O., examined Claimant on March 18, 2002, and recommended lumbar epidural steroid injections (ESIs). He also recommended continuing conservative care until Claimant completed the ESI course of treatment.
9. The first ESI occurred after April 23, 2002.
10. Four to six weeks of conservative care by Respondent was medically necessary and not unreasonable.
11. Attempting to avoid surgery by use of ESIs was reasonable.
12. Continuing conservative care while awaiting preauthorization for the ESIs was reasonable.
13. The treatment dates in issue are February 7, 2002, through April 23, 2002.
14. Petitioner denied Respondent reimbursement for the chiropractic services provided Claimant between February 7, 2002, and April 23, 2002, as not medically necessary.
15. The Texas Workers' Compensation Commission (Commission), acting through an Independent Review Organization (IRO), Independent Review Incorporated, found that the chiropractic services provided by Respondent between February 7, 2002, and April 23, 2002, were medically necessary and that the chiropractic services provided by Respondent between April 24, 2002, and September 23, 2002, were not medically necessary for the treatment of Claimant.
16. Petitioner timely requested a hearing before the State Office of Administrative Hearings (SOAH) regarding the medical necessity of the chiropractic services provided to Claimant between February 7, 2002, and April 23, 2002.
17. Respondent did not request a hearing before SOAH regarding the medical necessity of the chiropractic services provided to Claimant between April 24, 2002, and September 23, 2002.
18. The parties prefiled all exhibits and testimony.

19. The hearing convened on May 6, 2004, with SOAH Administrative Law Judge Howard S. Seitzman presiding. Katie Kidd represented Petitioner and Scott Hilliard represented Respondent. Following conclusion of closing arguments, the parties agreed to file a stipulation of the amount in dispute. The parties filed the stipulation on May 11, 2004, and the record closed that day.
20. The amount in dispute is \$8,485.00.

III. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to the Texas Workers= Compensation Act, specifically TEX. LABOR CODE ANN. ' 413.031(k), and TEX. GOV=T CODE ANN. ch. 2003.
2. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV=T CODE ANN. ch. 2001 and 28 TEX. ADMIN. CODE ch. 148.
3. The request for a hearing was timely made pursuant to 28 TEX. ADMIN. CODE ' 148.3.
4. Adequate and timely notice of the hearing was provided according to TEX. GOV=T CODE ANN. ' ' 2001.051 and 2001.052.
5. Petitioner has the burden of proof in this matter. 28 TEX. ADMIN. CODE ' ' 148.21(h) and 133.308(w).
6. The chiropractic services provided by Respondent from February 7, 2002, through April 23, 2002, were reasonable and medically necessary.

ORDER

THEREFORE IT IS ORDERED that Central Dallas Rehab is entitled to reimbursement from Texas Mutual Insurance Company for charges, plus any applicable interest, associated with chiropractic services provided to injured worker ___ from February 7, 2002, through April 23, 2002.

SIGNED June 28, 2004.

**HOWARD S. SEITZMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

