

SOAH DOCKET NO. 453-04-2026.M5
[TWCC MDR NO. M5-03-1500-01]

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

DECISION AND ORDER

I. DISCUSSION

Central Dallas Rehab (Petitioner) requested a hearing following a November 25, 2003 Decision of the Texas Workers' Compensation Commission (Commission). The Commission, relied, in part, upon a June 27, 2003 decision of Envoy Medical Systems, LLC., an Independent Review Organization (IRO). The Commission denied reimbursement for chiropractic services provided by Petitioner to injured worker ____ (Claimant) from May 29 through July 26, 2002, but authorized reimbursement for an initial office visit on May 22, 2002, and for lumbar range of motion testing provided to Claimant on May 29 and June 19, 2002. Texas Mutual Insurance Company (Respondent) did not request a hearing on the reimbursement authorized by the Commission.¹ This Decision and Order will only address the chiropractic services for which the Commission denied reimbursement.

¹ The Commission denied Petitioner reimbursement for muscle testing on June 25, 2002, and on July 10, 2002, because Petitioner failed to submit reports as required by 28 TAC 133.307(g)(3)(B) in fee disputes.

The amount in dispute is \$6,548.00. After considering the evidence and arguments of the parties, the Administrative Law Judge (ALJ) concludes that some, but not all, of the chiropractic services provided by Respondent from May 22 through July 26, 2002, were reasonable and medically necessary.

The parties prefiled all exhibits and testimony. The hearing convened on August 12, 2004, with State Office of Administrative Hearings (SOAH) ALJ Howard S. Seitzman presiding. Scott Hilliard represented Petitioner and Scott Placek represented Respondent. The record closed following the conclusion of closing arguments. Neither party objected to notice or jurisdiction.

Claimant suffered a work-related injury to his back on or about ____, while lifting heavy boxes. On May 16, 2002, Claimant was treated at Medway Health Center, diagnosed with trapezius strain, given medications and a home exercise program was recommended. Claimant began treatment with Petitioner on May 22, 2002, with Ted Krejci, D.C., as the treating professional. Petitioner diagnosed lumbar sprain strain, nerve root compression and lumbar facet syndrome. In addition to billing for office visits, Petitioner billed Respondent for treatment consisting of therapeutic exercises, joint mobilization, spinal manipulation, myofascial release, manual traction, and testing.

Crawford Sloan, M.D., examined Claimant on May 24, 2002, and diagnosed lumbar strain/sprain and lumbar herniated disc. Dr. Sloan prescribed medications and continued therapy and treatment. A June 14, 2002 MRI revealed a herniated disc at L3-4 and L4-5.² James E. Laughlin, D.O., examined Claimant on July 1, 2002, diagnosed lumbar strain with trigger points and displaced disc without radiculopathy. Dr. Laughlin recommended trigger point injections but Claimant declined.

² A two millimeter left interforaminal left postlateral herniation not impacting neural structures.

David Alvarado, D.C., a witness for Respondent, opined, in summary, that it is not unreasonable to employ passive modalities exclusively for the first two weeks, and that passive modalities, if continued, should then be combined with active modalities. The patient's response, or lack thereof, to the treatments should be examined every two to six weeks and the treatments adjusted as necessary.³

Claimant suffered from a lumbar strain /sprain. Given that condition, four to six weeks of conservative care by Petitioner was not unreasonable.

Petitioner had the burden of proof. Petitioner proved by a preponderance of the evidence that the chiropractic services consisting of office visits (CPT 99213-MP), joint mobilization (CPT 97265), myofascial release (CPT 97250) and manual traction (CPT 97122) provided to Claimant from May 29 through June 28, 2002, were reasonable and medically necessary. Petitioner proved by a preponderance of the evidence that two units of individual therapeutic exercise (CPT 97110) per treatment session provided to Claimant from May 29 through June 7, 2002, were reasonable and medically necessary. Petitioner failed to prove the muscle testing (CPT 97750-MT) performed on June 14, 2002, was medically necessary.

Respondent did not contest the fee dispute findings of the Commission. Therefore, in addition to the foregoing reimbursement, Petitioner is entitled to the following reimbursement: (1) \$74.00 for the May 22, 2002 initial office visit (CPT 99203) and (2) \$72.00⁴ for the lumbar range of motion testing (CPT 95851) performed on May 29, 2002 and June 19, 2002. Petitioner failed to

³ Respondent preserved lack of appropriate documentation as to portions of the individual therapeutic exercise. Because Respondent did not properly preserve appropriate documentation as a basis for denying reimbursement as to any other services, evidence regarding documentation is disregarded except as to therapeutic exercise.

⁴ Each procedure has a maximum allowable reimbursement of \$36.00.

properly document the muscle testing (CPT 97750-MT) performed on June 25 and July 10, 2002, and is not entitled to reimbursement for those procedures.

II. FINDINGS OF FACT

1. ____ (Claimant) suffered a work-related injury on ____.
2. On May 16, 2002, Claimant was treated at Medway Health Center, diagnosed with trapezius strain, given medications and a home exercise program was recommended.
3. Claimant began treatment with Central Dallas Rehab (Petitioner) on May 22, 2002, with Ted Krejci, D.C., as the treating professional.
4. Petitioner diagnosed lumbar sprain strain, nerve root compression and lumbar facet syndrome.
5. In addition to billing for office visits, Petitioner billed Texas Mutual Insurance Company (Respondent) for treatment consisting of therapeutic exercises, joint mobilization, spinal manipulation, myofascial release, manual traction, and testing.
6. A June 14, 2002 MRI revealed a herniated disc at L3-4 and L4-5.
7. Crawford Sloan, M.D., examined Claimant on May 24, 2002, and diagnosed lumbar strain/sprain and lumbar herniated disc.
8. Dr. Sloan prescribed medications and continued therapy and treatment.
9. James E. Laughlin, D.O., examined Claimant on July 1, 2002, diagnosed lumbar strain with trigger points and displaced disc without radiculopathy.
10. Dr. Laughlin recommended trigger point injections but Claimant declined.
11. Claimant suffered from a lumbar strain /sprain.
12. Four to six weeks of conservative care was medically necessary and reasonable.
13. The treatment dates in issue are May 22, 2002, through July 26, 2002.

14. Respondent denied Petitioner reimbursement for the chiropractic services provided Claimant between May 22 through July 26, 2002.
15. The Texas Workers' Compensation Commission (Commission), relying in part, upon a June 27, 2003 decision of Envoy Medical Systems, LLC., an Independent Review Organization (IRO), denied reimbursement for chiropractic services provided by Petitioner to Claimant from May 29 through July 26, 2002, but authorized reimbursement for an initial office visit on May 22, 2002, and for lumbar range of motion testing provided to Claimant on May 29 and June 19, 2002. The Commission also denied Petitioner reimbursement for muscle testing on June 25 and July 10, 2002.
16. Petitioner timely requested a hearing before the State Office of Administrative Hearings (SOAH) regarding the chiropractic services provided to Claimant between May 22 and July 26, 2002.
17. Respondent did not request a hearing before SOAH regarding the chiropractic services provided to Claimant between May 22, 2002 and July 26, 2002.
18. The parties prefiled all exhibits and testimony.
19. The hearing convened on August 12, 2004, with SOAH Administrative Law Judge Howard S. Seitzman presiding. Scott Hilliard represented Petitioner and Scott Placek represented Respondent. The record closed on August 12, 2004.
20. The amount in dispute is \$6,548.00.

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.

The request for a hearing was timely made pursuant to 28 TEX. ADMIN. CODE ' 148.3.

3. Adequate and timely notice of the hearing was provided according to TEX. GOV'T CODE ANN. ' ' 2001.051 and 2001.052.
4. Petitioner has the burden of proof in this matter. 28 TEX. ADMIN. CODE ' ' 148.21(h) and 133.308(w).
5. Petitioner proved by a preponderance of the evidence that the chiropractic services consisting of office visits (CPT 99213-MP), joint mobilization (CPT 97265), myofascial release (CPT 97250) and manual traction (CPT 97122) provided to Claimant from May 29 through June 28, 2002, were reasonable and medically necessary. Petitioner proved by a preponderance of the evidence that two units of individual therapeutic exercise (CPT 97110) per treatment session provided to Claimant from May 29 through June 7, 2002, were reasonable and medically necessary. Petitioner failed to prove the muscle testing (CPT 97750-MT) performed on June 14, 2002, was medically necessary. Petitioner is also entitled to the following reimbursement: (1) \$74.00 for the May 22, 2002 initial office visit (CPT 99203) and (2) \$72.00 for the lumbar range of motion testing (CPT 95851) performed on May 29 and June 19, 2002.
6. Petitioner failed to properly document the muscle testing (CPT 97750-MT) performed on June 25 and July 10, 2002, and is not entitled to reimbursement for those procedures. Petitioner failed to prove by a preponderance of the evidence that any additional chiropractic services it provided to Claimant were either reasonable or 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 the following chiropractic services: (1) office visits (CPT 99213-MP), joint mobilization (CPT 97265), myofascial release (CPT 97250) and manual traction (CPT 97122) provided to Claimant from May 29 through June 28, 2002; (2) two units of individual therapeutic exercise (CPT 97110) provided to Claimant from May 29 through June 7, 2002; (3) \$74.00 for the May 22, 2002 initial office visit (CPT 99203); and (4) \$72.00 for the lumbar range of motion testing (CPT 95851) performed on May 29 and June 19, 2002.

SIGNED September 22, 2004.

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