

**DOCKET NO. 453-04-2028.M5
TWCC MR#M5-03-1510-01**

CENTRAL DALLAS REHAB,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
VS.	§	OF
	§	
	§	
AMERICAN HOME	§	
ASSURANCE COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Central Dallas Rehab (Provider) challenges an Independent Review Organization (IRO) decision denying it reimbursement for chiropractic services provided to an injured worker (Claimant). The Administrative Law Judge (ALJ) concludes that the services provided were not appropriate for Claimant’s injury. Consequently, reimbursement is denied.

I. STATEMENT OF THE CASE

Administrative Law Judge (ALJ) Gary Elkins convened and closed a hearing on March 11, 2004. Provider appeared at the hearing and was represented by Attorney Scott Hilliard. The insurance carrier, American Home Assurance Company (Carrier), appeared and was represented by Attorney James Sheffield.

Notice and jurisdiction, which were not disputed, are addressed in the Findings of Fact and Conclusions of Law.

II. DISCUSSION

A. Background

Claimant suffered a compensable injury on _____, when a sheetrock panel fell across his

right foot, fracturing the fourth and fifth toes. Based on his evaluation of Claimant the same day, Deepak Chavda, M.D., recommended prescription pain relievers; buddy-taping of the toes; use of a splint; no use of the right foot for several days along with the use of ice, elevation, and rest; and reassessment after several days with the possibility of returning Claimant to work at that time. At a follow-up evaluation on April 22, 2002, Dr. Chavda concluded Claimant was doing well and returned him to work, with limitations.¹ Dr. Chavda also scheduled followup appointments for continued evaluation and treatment.

On April 26, 2002, Claimant began seeing Ted Krejci, D.C., who is employed by Provider. Dr. Krejci administered extensive chiropractic care to Claimant during approximately 30 office visits over the ensuing two months, until July 2, 2002. The care, totaling \$7,519, consisted of such procedures as joint mobilization, manual traction, myofascial release/soft tissue mobilization, and therapeutic exercises administered to Claimant's right foot and ankle. When Carrier denied reimbursement for the chiropractic services as not medically necessary, Provider requested medical dispute resolution. The IRO concluded that the disputed services were not medically necessary and denied reimbursement. Provider then requested a hearing before the State Office of Administrative Hearings (SOAH). The evidence presented at the SOAH hearing strongly supports Carrier's position that the disputed services were neither reasonable nor necessary. Consequently, reimbursement is denied.

B. Evidence and Argument

In support of its position that the services provided to Claimant were necessary for the treatment of his injuries, Provider argued the following:

! The disputed treatments were administered to the whole injury, which

¹ Based on his April 22, 2002, examination of Claimant, Dr. Chavda concluded that Claimant's neuromuscular status appeared to be intact, there was still some swelling in his third, fourth and fifth toes with some discomfort in the metatarsal areas, and that Claimant demonstrated good range of motion in the ankle area. [Ex. 2, p. 96.]

included not only Claimant's toes but also his foot, which was also injured in the accident.

- ! Joint mobilization and manual traction services were provided to prevent Claimant from suffering muscle atrophy, deconditioning, or other potential disease processes that might occur in the absence of movement or exercise to the injured area. These services not only increase the patient's strength in the affected area but also enable nutrients to reach the area.
- ! The office visits provided for regular monitoring of Claimant's safety and progress. A homecare plan as recommended by Carrier's expert witness would not have accounted for these needs.
- ! Periodic range-of-motion testing performed at various stages of Claimant's rehabilitation was necessary to maintain the appropriate course of care.

As reflected in the testimony of its expert witness, Charles Crane, M.D., Carrier asserts the following in support of its conclusion that the chiropractic services were not medically necessary to treat Claimant's injuries:

- ! Claimant's toe fractures were simple and straightforward injuries that would be expected to heal with routine treatment in six to twelve weeks.
- ! Immobilization of Claimant's foot for four-to-eight weeks combined with body taping of fractured toes was the appropriate approach to ensuring Claimant's successful recovery.
- ! Despite Provider's conclusion to the contrary, nothing indicates Claimant's injuries extended beyond his toes to his foot.
- ! Although atrophy can arise from an injury, it should not be of concern where the injury is limited to the toes. In his designated doctor examination performed on June 20, 2002, David Hunter, M.D., concluded Claimant's right leg appeared grossly normal; there was no evidence of muscle atrophy or deformity.
- ! Treatment employing joint mobilization, which Provider administered to Claimant, would not only be contra-indicated for Claimant's injuries, it might also constitute malpractice, particularly where administered in the vicinity of the fractures.
- ! Not only was manual traction unsupported by the nature of Claimant's injuries, administering such treatment could cause delayed or improper

healing.

C. Analysis and Conclusion

Provider is entitled to no reimbursement. The evidence clearly indicates that Provider's services not only were unnecessary in the treatment of Claimant's injuries but also extended to areas of Claimant's foot not injured in the accident. The injury was limited to fractures to the fourth and fifth toes of Claimant's right foot. Nevertheless, Provider very literally interpreted one portion of Dr. Chavda's findings that of a crush injury to the foot together with a finding of swelling of Claimant's foot near the injured toes and Claimant's subjective complaints of pain in his foot near the toes, to conclude that the main body of Claimant's foot also had been damaged in the accident. Based on this conclusion, Provider proceeded to administer two months of extensive chiropractic services to Claimant's right foot predominantly to areas beyond the area of injury utilizing multiple procedures provided during approximately thirty office visits.

The ALJ concludes Provider's services were not reasonably calculated to cure or relieve the effects naturally resulting from the injury Claimant suffered; did not promote his recovery; and did not enhance his ability to return to work. In fact, the ALJ is persuaded that some of the services were contra-indicated based on the nature of the injury, and most of the services were provided to areas of Claimant's foot unaffected by the accident. Conversely, the evidence strongly supported a treatment regimen like that recommended by Dr. Chavda and confirmed by Dr. Crane as the more reasonable approach to treating Claimant's injury and returning him to work. Consequently, Provider is not entitled to reimbursement for its services.

III. FINDINGS OF FACT

1. An injured worker (Claimant) suffered a compensable injury on _____, when he fractured two toes on his right foot. Aside from the toe fractures and associated swelling and pain, Claimant suffered no other injuries to his right foot.
2. At the time of Claimant's injury, his employer held workers' compensation insurance coverage with American Home Assurance Company (Carrier).
3. The doctor who initially evaluated Claimant on _____, recommended prescription pain

relievers; buddy-taping Claimant's fourth and fifth toes to his third toe; use of a splint; no use of Claimant's right foot for several days along with the use of ice, elevation, and rest; and reassessment several days later with the possibility of returning Claimant to work at that time.

4. After a follow-up evaluation on April 22, 2002, Claimant was returned him to work, with limitations.
5. On April 26, 2002, Ted Krejci, D.C., began providing extensive chiropractic services to Claimant, which consisted of approximately 30 office visits over the ensuing two months, until July 2, 2002. The care, totaling \$7,519, consisted of such procedures as joint mobilization, manual traction, myofascial release/soft tissue mobilization, and therapeutic exercises.
6. Carrier refused Provider's request for reimbursement.
7. In response to Carrier's denial of reimbursement, Provider requested medical dispute resolution.
8. An Independent Review Organization (IRO) concluded Provider was not entitled to reimbursement for the disputed services.
9. Upon receiving the IRO decision, Provider timely requested a hearing before the State Office of Administrative Hearings (SOAH).
10. Notice of the hearing was sent to the parties on January 14, 2004. The notice informed the parties of the date, time, and location of the hearing, a statement of the matters to be considered, the legal authority under which the hearing would be held, and the statutory provisions applicable to the matters to be considered.
11. The hearing convened and closed March 11, 2004.
12. On _____, Claimant exhibited full range of motion in his ankle in dorsiflexion, plantar flexion, inversion and eversion; his tibiotalar and subtalar joints in his mid-foot and forefoot were normal and symmetrical bilaterally; and soft tissue findings were unremarkable.
13. The reasonable approach to treating Claimant's toe fractures would have consisted of prescription medication to control the pain; icing, elevating, and resting the foot; buddy-taping the fourth and fifth toes to the third toe; refraining from using the foot for several days; foot-immobilization for four to eight weeks; and the use of a posterior splint.
14. Based on the nature of the injuries to the two fractured toes, they would be expected to heal in six to twelve weeks.
15. Treatment employing joint mobilization, which Provider administered to Claimant's right foot, was contra-indicated for Claimant's injuries.

16. The use of manual traction to treat Claimant's injuries was not reasonable, and administering such treatment could cause delayed or improper healing.
17. Myofascial release, which works on trigger points to relieve muscular pain, was not proper treatment for Claimant's injury.
18. Atrophy is not as much of a problem with toe injuries as it is with injuries to other areas of the leg because injured toes are immobilized to a lesser degree.
19. A May 2002 CT Scan of Claimant's right leg produced normal results.
20. On June 20, 2002, there was no evidence of any muscle atrophy or deformity in the proximal or distal portion of Claimant's right leg; his ankle exhibited a full range of motion; pulses and temperature in the right foot were normal; reflexes at the ankle were normal; and there was no evidence of sensory loss at the ankle.
21. Most of the disputed services were administered by Provider to portions of Claimant's foot unrelated to the compensable injury.
22. Claimant derived no meaningful medical benefits from the disputed chiropractic services.

IV. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding pursuant to §413.031(k) of the Act and TEX. GOV'T CODE ANN. ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§2001.051 and 2001.052.
3. As Petitioner, Central Dallas Rehab bears the burden of proof in this matter. 28 TEX. ADMIN. CODE (TAC) §148.21(h).
4. Petitioner failed to prove the disputed chiropractic services were reasonably required by the nature of the claimant's injury, cured or relieved the effects naturally resulting from the compensable injury, promoted Claimant's recovery, or enhanced Claimant's ability return to or retain employment. TEX. LAB. CODE ANN. §408.021.
5. The disputed services were not medically necessary to treat Claimant's compensable injury.
6. Petitioner is not entitled to reimbursement for the disputed services.

ORDER

IT IS ORDERED that the reimbursement claim of Central Dallas Rehab for chiropractic services provided to Claimant from April 26, 2002, through July 2, 2002, is denied.

Signed May 10, 2004.

**GARY W. ELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**