

**DOCKET NO. 453-04-5231.M4
MR NO. M4-03-4725-01**

MAIN REHAB & DIAGNOSTIC,	'	BEFORE THE STATE OFFICE
Petitioner	'	
	'	
VS.	'	OF
	'	
TWIN CITY FIRE INSURANCE	'	
COMPANY,	'	
Respondent	'	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Main Rehab & Diagnostic (Main Rehab) timely appealed the decision of the Medical Review Division (MRD) of the Workers' Compensation Commission (Commission). At issue is whether Main Rehab should be reimbursed by Twin City Fire Insurance Company (Carrier) for physical therapy rendered to ___ (Claimant). MRD found that Main Rehab failed to provide sufficient documentation to support the level of services provided to Claimant from May 20, through July 23, 2002. The Administrative Law Judge (ALJ) finds that the MRD did not err in its decision.

I. JURISDICTION AND NOTICE

There were no contested issues of jurisdiction or notice. Therefore, those issues are addressed in the findings of fact and conclusions of law without further discussion here.

II. BACKGROUND AND PROCEDURAL HISTORY

On ___, the Claimant suffered a compensable workers' compensation injury. She initially went to see her family doctor, who referred her to Main Rehab for treatment. Her treatment included twenty-five physical therapy sessions from May 20, 2002 to July 23, 2002. Main Rehab billed for one hour of physical therapy, consisting of four units of therapy per day, using Current Procedural

Terminology (CPT) Code 97110, at \$35.00 per unit for a total of \$140.00 daily.¹

The hearing on the merits was conducted by ALJ Katherine Smith on August 31, 2004. Main Rehab was represented telephonically by Scott Hilliard, an attorney. Carrier was represented by Steve Tipton, an attorney. The record closed on August 31, 2004.

IV. ANALYSIS

Main Rehab has the burden of showing that the treatment provided to Claimant was one-on-one therapy as billed. Main Rehab contends that the requirement that there be sufficient documentation of supervised one-on-one has only been set out recently in decisions from the State Office of Administrative Hearings (SOAH). The ALJ notes, however, that SOAH decisions requiring documentation of one-on-one supervision with specificity, in order to justify billing under CPT Code 97110, date as far back as 2000.² Furthermore, those SOAH decisions do nothing more than interpret the Medicine Ground Rules in the 1996 Medical Fee Guideline.

In this case, the medical records show that Main Rehab repeated the same generic language on every date entered for the therapy, so that the same typo appears at each entry.³ Furthermore, Main Rehab failed to describe the activities Claimant performed, the purpose of each activity, the time she spent at each activity, the equipment she used, the activities that were supervised, and Claimant's response to each activity. Therefore, the ALJ finds that Main Rehab failed to adequately

¹ The total fee for 25 days of treatment under CPT Code was \$3,500.00

² See SOAH Docket No. 453-00-2051.M4 (December 1, 2000)(ALJ O=Malley); SOAH Docket No. 453-01-1081.M4 (May 25, 2001)(ALJ Smith); SOAH Docket No. 453-01-1492.M5 (July 23, 2001)(ALJ Cunningham); and SOAH Docket No. 453-01-1188.M5 (April 3, 2002)(ALJ Smith).

³ Provider=s Ex. 1, pp. 172-208. ATHERAPEUTIC EXERCISES: Supervised exercises were performed by Joanna in order [sic] to increase flexibility, strength, range of motion, and the ability to perform the activities required on the job. These exercises were applied to the wrist and the elbow bilaterally. Joanna performed 4 units of therapy today.@

document the services provided. Accordingly, Carrier is not required to reimburse Main Rehab for the services billed under CPT Code 97110.

V. FINDINGS OF FACT

1. On ____, ____ (Claimant) suffered a compensable workers' compensation injury.
2. Claimant was referred by her family doctor to Main Rehab & Diagnostic for treatment of her injury on May 20, 2002.
3. Claimant was diagnosed with carpal tunnel syndrome, wrist sprain/strain, elbow bursitis; and epicondylitis.
4. Main Rehab & Diagnostic treated Claimant between May 20, 2002, and July 23, 2002.
5. Main Rehab & Diagnostic billed Twin City Fire Insurance Company for four 15-minute units of one-on-one physical therapy, using CPT Code 97110, for each of the twenty-five treatment sessions during the time period between May 20, 2002, and July 23, 2002.
6. Twin City Fire Insurance Company denied the claims for reimbursement.
7. On March 18, 2003, Main Rehab & Diagnostic requested dispute resolution by the Texas Workers' Compensation Commission (Commission).
8. The Commission's Medical Review Division issued a decision and order on March 30, 2004, which ruled that the injury was compensable, but recommended that no reimbursement be paid to Main Rehab & Diagnostic for the dates of service listed in Findings of Fact No. 4, because of insufficient documentation.
9. On April 6, 2004, Main Rehab & Diagnostic filed its request for a hearing with the State Office of Administrative Hearings.
10. The Commission issued a notice of hearing on May 17, 2004.
11. The hearing notice informed the parties of the date, time, and place of the hearing, the matters asserted, and the statutes and rules involved.

12. Main Rehab & Diagnostic failed to note in its documentation the particular activities Claimant performed, the purpose of each activity, the number of repetitions Claimant performed, the amount of time she spent at each activity, the equipment she used, the activities that were supervised, and Claimant's response to the treatment.
13. The documentation that Main Rehab & Diagnostic provided was not detailed and specific to each session and, therefore, does not reflect the individual attention required for one-on-one physical therapy.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction to decide the issues presented pursuant to the Texas Workers' Compensation Act, TEX. LABOR CODE ANN. § 413.031.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a decision and order, pursuant to TEX. LABOR CODE ANN. §§ 402.073 and 413.031 (k) and TEX. GOV'T CODE ANN. ch. 2003.
3. Adequate and timely notice of the hearing was provided in accordance with 28 TEX. ADMIN. CODE §148.4 (1998).
4. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and the Commission's rules, 28 TEX. ADMIN. CODE § 133.305(g) and §§ 148.001-148.028.
5. Main Rehab & Diagnostic, the party seeking relief, bore the burden of proof in this case, pursuant to 28 TEX. ADMIN. CODE §148.21(h) and (i).
6. Based on the foregoing findings of fact and conclusions of law, Main Rehab & Diagnostic Provider is not entitled to reimbursement.

ORDER

IT IS, THEREFORE, ORDERED that Twin City Fire Insurance Company is not required to reimburse Main Rehab & Diagnostic for the therapy billed under CPT Code 97110.

SIGNED October 27, 2004.

**KATHERINE L. SMITH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**