

**SOAH DOCKET NO. 453-04-5982.M5  
TWCC MR No. M5-04-0107-01**

<b>HATFIELD CHIROPRACTIC, INC.</b>	·	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
<b>V.</b>	§	<b>OF</b>
	§	
<b>AMERICAN HOME ASSURANCE COMPANY</b>	§	<b>ADMINISTRATIVE HEARINGS</b>
<b>Respondent</b>		

**DECISION AND ORDER**

Hatfield Chiropractic, Inc. (Hatfield) requested a hearing to contest a Texas Workers' Compensation Commission (Commission) Medical Review Division (MRD) decision that its documentation was inadequate to support the delivery of certain services to an injured worker and that its claim should therefore be denied. This order denies the claim because Hatfield failed to carry its burden of proving that the MRD decision should be overturned.

A hearing convened on September 8, 2004, before Administrative Law Judge (ALJ) James W. Norman at the State Office of Administrative Hearings (SOAH), Austin, Texas. Hatfield appeared through David Sloan, its physical therapist and part-time office manager. American Home Assurance Company (American Home) was represented by its counsel, Steven M. Tipton.<sup>1</sup> There were no objections to notice or jurisdiction. The hearing closed on September 8, 2004.

**I. DISCUSSION**

1. Background

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<sup>1</sup> The insurance carrier identified on the face of the MRD decision is Fidelity and Guaranty Insurance. However, at the hearing, Mr. Tipton identified American Home as the insurer at interest.

As the party seeking relief, Hatfield has the burden of disproving the conclusions reached by the MRD.<sup>2</sup> The services at issue were provided between September 11, 2002, and August 4, 2003. The MRD denied Hatfield's claim with the following or a similar statement: Requestor did not submit relevant information to support delivery of the service. No reimbursement recommended.<sup>3</sup> In addition, the MRD issued a statement regarding one of the CPT codes, 97110, saying that Hatfield 's daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.<sup>4</sup>

The Commission issued a Notice of Hearing (NOH) for this case on June 8, 2004, which included the following statement in bold-faced type:

**At least five working days before the hearing, each party must file at SOAH a copy of all documents the party submitted to the IRO or MRD and any other documents the party might offer into evidence. The documents must (1) be mailed to all other parties at the same time they are filed with SOAH; (2) be grouped and labeled as, Documents submitted to IRO or MRD and Other**

**Relevant Documents; . . . Failure to file these documents may result in a delay or a ruling that excludes them from consideration.**

American Home submitted its documentation for the hearing on June 18, 2004. Hatfield did not pre-file any documentation, but appeared at the hearing with the materials it wanted to introduce.

## 2. American Home's Objection to Evidence

American Home objected to the submission of Hatfield's documentation on the grounds that it had not been provided the documentation in a timely fashion as required by the NOH letter and

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<sup>2</sup> 1 TEX. ADMIN. CODE (TAC) ' 155.41; 28 TAC ' 148(h).

<sup>3</sup> Ex. 2. In some cases, when MRD recommended payment for some dates of service but not others, the statement said, "Requestor did not submit relevant information to support delivery of service for DOS [dates of service were then listed]." The amount Hatfield billed was \$3,627.00, of which the MRD ruled American Home should pay \$454.00. American Home did not appeal the MRD decision that it should pay \$454.00.

<sup>4</sup> Ex. 2.

because Hatfield had not submitted appropriate documentation to the MRD.<sup>5</sup>

The ALJ sustained American Home's objection based on the following considerations:

- § Hatfield failed to comply with the NOH letter requirement that it file its documentary evidence at least five working days before the hearing.<sup>6</sup> The purposes of the filing requirement include assisting the parties to proceed to hearing without document discovery and discovery disputes or assisting in effective trial presentation. Overall, the requirement promotes fair, orderly, and well-prepared cases.
- § American Home maintained it was prejudiced by Hatfield's failure to pre-file the documents. Its counsel said he would need to change his response to about half the items at issue. It objected to continuing the case to a later date because it would incur duplicate legal fees.
- § As shown by the above-cited MRD decision, Hatfield also failed to produce documentation for the MRD to review. In this connection, American Home produced its copy of a December 2003 notice from the MRD to Hatfield requesting additional documentation to support its claim. In addition, the MRD decision states, "On 12-12-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice."<sup>7</sup> Mr. Sloan acknowledged that Hatfield did not submit additional information for the MRD review, but maintained that Hatfield never got the notice<sup>8</sup>-he said he had called the Commission to determine whether
- § additional documentation was needed, but was told that an order would issue.<sup>9</sup> The ALJ believes the fact that American Home received the December notice is persuasive evidence that the notice was also mailed to Hatfield. Mr. Sloan did not dispute the mailing of the notice. He said that other mail to Hatfield has been mis-routed.

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<sup>5</sup> American Home also said Hatfield had not submitted proper documentation when it first submitted the claim; however, except for one date of service, the Administrative Law Judge (ALJ) was not able to verify that assertion from the evidence submitted at the hearing.

<sup>6</sup> Mr. Sloan said that Hatfield is re-arranging its offices and that just before the hearing he discovered the NOH in a box that had been packed away.

<sup>7</sup> Ex. 2.

<sup>8</sup> Other than Mr. Sloan's assertion, there was no evidence of non-receipt of the notice.

<sup>9</sup> Mr. Sloan said the Commission did ask for documentation of medical necessity for services from April 23, 2003, until May 29, 2003, and Hatfield provided that information.

The Commission's rules at 28 TEX. ADMIN. CODE (TAC) ' 133.307(g)(3) provide, Alf the request contains only medical fee disputes, the commission shall notify the parties and require the requestor to send to the commission, two copies of additional documentation relevant to the dispute. A Subsection (g)(3)(B) says the requestor is required to provide Aa copy of any pertinent medical records or other documents relevant to the fee dispute.

3. Analysis and Decision

The ALJ concludes that the claim should be denied. The only evidence, from American Home, consisted of documentation it had previously sent to MRD, including its counsel's arguments, a peer review saying the treatments were medically unnecessary, and explanations of benefits. This evidence did not show that Hatfield carried its burden of proving it had adequate documentation.

## II. FINDINGS OF FACT

1. Hatfield Chiropractic, Inc. (Hatfield) provided services from September 11, 2002, through August 4, 2003, to an injured worker (Claimant) who suffered an at-work injury.
2. American Home Assurance Company (American Home) was the Claimant's employer's workers' compensation insurance carrier.
3. American Home denied Hatfield's claim for payment of the services.
4. Hatfield requested medical dispute resolution.
5. The Texas Workers' Compensation Commission (Commission) Medical Review Division (MRD) ordered American Home to pay \$454.00 of Hatfield's total claim of \$3,627.00, but denied reimbursement for the remainder of the claim based on its conclusion that Hatfield did not submit relevant documentation to support delivery of the service.
6. It is undisputed that Hatfield requested a hearing within 20 days of receiving notice of the MRD decision.
7. All parties received not less than 10 days' notice of the time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
8. All parties had an opportunity to respond and present evidence and argument on each issue

involved in the case.

9. Hatfield did not submit evidence to overcome the MRD decision.
10. There was insufficient evidence that Hatfield had sufficient documentation to support the delivery of the services in dispute.

### **III. CONCLUSIONS OF LAW**

1. 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. LAB. CODE ANN. ' 413.031(k) and TEX. GOV'T. CODE ANN. ch. 2003.
2. Notice of the hearing was proper and timely. TEX. GOV'T. CODE ANN. ' ' 2001.051 and 2001.052.
3. Hatfield has the burden of proof in this case. 1 TEX. ADMIN. CODE (TAC) ' 155.41; 28 TAC ' 148(h).
4. Hatfield failed to carry its burden of proof.
5. Hatfield's claim should be denied.

### **ORDER**

**IT IS THEREFORE ORDERED** that the claim of Hatfield Chiropractic, Inc., against American Home Assurance Company, that is the subject of this hearing be, and the same is hereby, denied.

**SIGNED October 11, 2004**

**JAMES W. NORMAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**