

6. On January 25, 2002, Claimant completed three weeks of a work hardening program.
7. On April 15, 2002, Claimant moved to California and presented to Provider for chiropractic treatments of passive modalities.
8. When Claimant sought treatment from Provider, she complained of left knee pain and was walking with a limp and a cane.
9. In 56 visits from May 15, 2002, through October 11, 2002, the Provider furnished the following services to the Claimant, and sought total reimbursement of \$5,304.00 from the Carrier, :99213 - office visits, 97010 - hot/cold packs, 97014 - electrical stimulation, and 97124 - massage.
10. Claimant is 63 and does not plan on returning to work.
11. There is no documentation in the record to indicate that Claimant experienced any better range of motion or less pain during the course of the treatments.
12. Additional passive modalities beyond a six to eight-week period after surgery are not helpful for the Claimant's type of injury.
13. Chiropractic treatments of passive modalities two years beyond the date of injury are not medically necessary.
14. The Provider timely sought reimbursement from the Carrier for each of the disputed services.
15. The Carrier timely denied reimbursement for each of the disputed services by claiming that they were either non-compensable or not medically necessary.
16. The Provider filed a request for medical dispute resolution (MRD) with the Texas Workers' Compensation Commission (TWCC) concerning the disputed services.
17. The TWCC MRD denied reimbursement for the disputed services on the basis that Provider failed to submit copies of medical reports.
18. After the TWCC MRD issued its decision, Provider asked for a contested-case hearing by a State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ).
19. The required notice of a contested-case hearing concerning the dispute was mailed to the Carrier and the Provider.
20. On February 15, 2005, SOAH ALJ William G. Newchurch held a contested-case hearing concerning the dispute at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. The hearing concluded and the record closed on that same day.
21. The Carrier appeared at the hearing through its attorney, Gregory D. Solcher.
22. The Provider appeared telephonically at the hearing through its owner, Dr. Michael Shaub.

23. Evidence on the disputed services was submitted by both the Carrier and the Provider and was admitted into the record.
24. The ALJ assigned the burden of proof to the Carrier.

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. LABOR CODE ANN. §§ 402.073(b) and 413.031(k) (West 2004) and TEX. GOV'T CODE ANN. ch. 2003 (West 2004).
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
3. Based on the above Findings of Fact and TEX. GOV'T CODE ANN. § 2003.050(a) and (b), 1 TEX. ADMIN. CODE (TAC) § 155.41(b) (2004), and 28 TAC § 148.21(h) (2004), the ALJ assigned the burden of proof to the Carrier.
4. An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed that cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. TEX. LABOR CODE ANN. § 408.021(a).
5. The evidence does not show that the disputed services were reasonably likely to cure or relieve the Claimant's pain or any other effect naturally resulting from her compensable injury, promote her recovery, or enhance her ability to return to or retain employment.
6. Based on the above Findings of Fact and Conclusions of Law, the Provider's request to be reimbursed for the disputed services should be denied.

ORDER

IT IS ORDERED THAT the Provider's request to be reimbursed \$5,304.00 for the disputed services is denied.

SIGNED April 7, 2005.

**WILLIAM G. NEWCHURCH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**