

**BOYD CHIROPRACTIC CENTRE**

**V.**

**SERVICE LLOYDS INSURANCE  
COMPANY**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

Boyd Chiropractic Centre (Provider) seeks reimbursement of \$6,160 from Service Lloyds Insurance Company (Carrier) for office visits, therapeutic activities, neuromuscular re-education, myofascial release, joint mobilization, mechanical traction, electric stimulation, administrative and medical interpretations of developmental tasks, spinal manipulations, group therapy, manual therapy, review of reports, and spinal manipulations (medical services) provided to injured worker \_\_\_ (Claimant) from July 1, 2003, through October 2, 2003. An independent review organization (IRO) on behalf of the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (Commission) found that the medical services provided Claimant after June 30, 2003, were not medically necessary.<sup>1</sup> As set forth below in the Discussion and in the Findings of Fact and Conclusions of Law, the Administrative Law Judge (ALJ) concludes that Provider failed to prove by a preponderance of the evidence that the disputed medical services provided five months following the compensable injury were medically necessary.

**I. DISCUSSION**

The sole issue in this case is whether the medical services provided by Provider to Claimant after June 30, 2003, were medically necessary. Claimant, a 53-year-old male, injured his neck, back, and right leg while lifting and moving a heavy iron gate (the compensable injury) at work on \_\_\_\_\_. Claimant went to Provider for treatment on February 7, 2003. Provider treated Claimant with a conservative chiropractic regime, which included ice packs, hot packs, electrical muscle stimulation, myofascial release, and chiropractic adjustments to Claimant's cervical, thoracic, and lumbar spine.

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<sup>1</sup> The MRD found that the required medical reports issued by Provider and billed under CPT Code 99080-73 for dates of service July 23, 2003, August 18, 2003, and September 10, 2003, were not subject to the IRO review and ordered that the Carrier pay for these reports. The Carrier did not appeal this issue. Therefore, these reports are not discussed in this Decision and Order.

J. Todd Boyd, D.C. treated Claimant for three herniated discs. According to Dr. Boyd, Claimant's condition improved under his care, despite the IRO's findings. While Claimant's subjective complaints of pain did not improve, Dr. Boyd argued his objective findings of Claimant's condition did indicate improvement. According to Dr. Boyd, this improvement is evident if one considers all his SOAP notes for Claimant.

However, Dr. Boyd's medical records did not support this generalized statement. Instead, it appears Claimant received relief from the medications he was prescribed, particularly Vicodin. Dr. Boyd had the burden to show that the disputed medical services provided Claimant after June 30, 2003, were medically necessary. Based on the evidence and argument of counsel, the ALJ finds that Dr. Boyd failed to show that it was medically necessary to continue one-on-one therapy and the intense chiropractic service five months after Claimant's injury, particularly given Claimant's continued complaints of pain, and Claimant's failure to experience meaningful relief or improvement from Provider's treatment.

## **II. FINDINGS OF FACT**

1. On \_\_\_\_, Claimant, a 53-year-old male, Claimant \_\_\_\_suffered a compensable, work-related injury to his neck, back, arms, and right leg, while lifting a heavy gate.
2. Service Lloyds Insurance Company (Carrier) is Claimant's employer's workers' compensation insurance carrier covering Claimant's compensable injury.
3. As a result of the compensable injury, Claimant suffered from back pain that radiated into his lower right leg.
4. On February 7, 2003, Claimant saw Boyd Chiropractic Centre (Provider) for treatment of his compensable injury.
5. On February 7, 2003, x-rays were taken of Claimant's spine that did not reveal any type of fracture or dislocation, but did show mild hypertrophic changes in Claimant's cervical and lumbar spine and retrolisthesis of the L4 level without significant changes in displacement upon flexion and extension.
6. On March 27, 2003, Claimant's nerve conduction and DSEP studies of the lower extremity were unremarkable.
7. On February 18, 2003, Claimant underwent a lumbar MRI study that showed no evidence of disc herniation or nerve root impingement.

8. On February 18, 2003, Claimant underwent a thoracic MRI study that showed disc herniation at levels C6-C7, and C7-T1, but no acute herniation.
9. Provider referred Claimant to Donald Kramer, M.D., for evaluation and treatment.
10. Dr. Kramer examined Claimant and diagnosed him with lumbar radiculopathy/radiculitis at L5-S1 on the right side and prescribed Prednisone and Vicodin.
11. On March 14, 2003, Claimant returned to Provider for further treatment.
12. Provider diagnosed Claimant with cervical disc herniation, cervical segmental dysfunction, lumbar segmental dysfunction, and lumbosacral sprain/strain.
13. On March 27, 2003, Claimant underwent a lumbar discogram/CT scan which showed a left sided lateral disc herniation at the L4-L5 level and a posterocentral herniation at the L5-S1 level.
14. Claimant's pain was relieved when he took the prescribed Vicodin.
15. Despite months of chiropractic care, Claimant did not undergo a functional capacity evaluation to objectively measure Claimant's physical condition.
16. On June 21, 2003, Brad McKechnie, D. C., conducted a chiropractic peer review of the services provided by Provider to Claimant and concluded Claimant did not need further medical treatment.
17. From July 1, 2003, through October 2, 2003, Provider billed Carrier for office visits, therapeutic activities, neuromuscular re-education, myofascial release, joint mobilization, mechanical traction, electric stimulation, administrative and medical interpretations of developmental tasks, spinal manipulations, group therapy, manual therapy, review of reports, and spinal manipulations (medical services) provided to Claimant.
18. In July 2003, Claimant underwent electromyography studies on both extremities, which were normal.
19. On July 22, 2003, Claimant had a CT scan study done of his lumbar spine following a discogram which showed a 3 mm left lateral protrusion with no extrusion at the L4-L5 level, and a 3 mm posterior disc herniation at the L5-S1 level with minimal disc height loss, minor facet arthropathy, mild neuroforaminal stenosis, and no extrusion.
20. Claimant's condition did not improve as a result of the treatments provided by Provider to Claimant after June 30, 2003.
21. Provider's treatment did not provide any meaningful relief for Claimant's compensable injury as Claimant continued to experience severe pain.

22. Provider's treatment did not enhance the ability of Claimant to return to or retain employment.
23. On July 22, 2003, John P. Obermiller, M.D. conducted a peer review and concluded Claimant had received an excessive amount of chiropractic care and that no further treatment was medically necessary.
24. Carrier denied reimbursement to Provider for services provided from July 1, 2003, to October 2, 2003, for lack of medical necessity based upon the peer reviews.
25. Claimant reached maximum medical improvement on July 24, 2003, with a zero impairment rating.
26. Provider requested medical dispute resolution by the Texas Workers' Compensation Commission's Medical Review Division (MRD).
27. On March 30, 2004, an independent review organization (IRO) reviewed the medical dispute and found that the disputed medical services provided to Claimant by Provider from July 1, 2003, through October 2, 2003, were not medically necessary.
28. Based on the IRO's findings, MRD ordered that Provider receive no reimbursement for the disputed medical services.
29. On November 23, 2004, Provider timely requested a hearing, and the case was referred to the State Office of Administrative Hearings (SOAH).
30. Required notice of the hearing was mailed to the parties on January 20, 2005.
31. The notice contained a statement of the time, place, and nature of the hearing, and the legal authority and jurisdiction under which the hearing was to be held; a reference to the sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
32. On May 16, 2005, Administrative Law Judge Catherine C. Egan convened a hearing in this case. James Todd Boyd, D. C. appeared on behalf of Provider. Attorney Tommy Leuders, II, represented Carrier. The hearing concluded and the record closed that same day.

### **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 (the Act), specifically TEX. LABOR CODE ANN. §§ 402.073(b) and 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.

3. The request for a hearing was timely made pursuant to 28 TEX. ADMIN. CODE § 148.3.
4. Adequate and timely notice of the hearing was provided according to TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
5. Provider has the burden of proof in this matter. 28 TEX. ADMIN. CODE §148.21(h).
6. 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 effect 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).
7. Based on the above Findings of Fact and Conclusions of Law, the disputed services provided by Provider to Claimant between July 1, 2003, and October 2, 2003, were not medically necessary to treat Claimant's compensable injury.

### **ORDER**

**IT IS ORDERED THAT** Boyd Chiropractic Centre is not entitled to reimbursement from Service Lloyds Insurance Company for the medical services provided Claimant from July 1, 2003, to October 2, 2003.

**SIGNED July 15, 2005.**

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**CATHERINE C. EGAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**