

ARK-LA-TEX HEALTH CENTER, INC.,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
VS.	§	OF
	§	
TEXAS MUTUAL INSURANCE	§	
COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Petitioner Ark-La-Tex Health Center, Inc. (ALTHC) seeks reimbursement of \$6,626.00 for spinal manipulation therapy and electrical stimulation it provided the Claimant, ____, during 2006. The Administrative Law Judge concludes ALTHC proved the medical necessity of the spinal manipulation therapy, but not that of the electrical stimulation. He orders reimbursement of \$4,806.00, which is the amount of the disputed charges for spinal manipulation therapy.

I. HISTORY, NOTICE, AND JURISDICTION

The Claimant sustained a compensable injury work-related incident on _____. Originally, the injury was diagnosed as an inguinal hernia only, but it was later diagnosed by James Raker, D.C., of ALTHC as a lumbar strain/sprain as well.¹ Dr. Raker began treating the Claimant for the lumbar strain/sprain in September of 2003 and has continued to do so. From January 20, 2006, through December 13, 2006, which are the disputed dates of service in this proceeding, ALTHC provided the Claimant 89 units of spinal manipulation therapy (CPT Code 98941) and 91 units of electrical stimulation (Code G0283). The workers' compensation carrier, Texas Mutual Insurance Company (TMIC), declined to pay for those services, whereupon ALTHC filed a timely Request for Medical Dispute Resolution.

The Independent Review Organization (IRO) issued its revised decision, denying ALTHC's

¹ Petitioner Ex. A-2.

request, on February 12, 2008.² Although ALTHC's request for hearing was dated February 16, 2008, TMIC presented evidence that the request was received by the Texas Department of Insurance's Division of Workers' Compensation (DWC) on April 7, 2008, more than the twenty days allowed by 28 TEX. ADMIN. CODE (TAC) § 148.3(a). TMIC moved to dismiss this case for that reason and due to other deficiencies in ALTHC's filing. At the hearing on the motion, ALTHC produced a copy of its request, showing a successful timely transmission to DWC on February 15, 2008. The ALJ denied the motion to dismiss on January 30, 2009.

Adequate and timely notice of the hearing originally was sent to both parties May 5, 2008. The last order of continuance was sent to both parties June 12, 2009, setting the hearing for August 6, 2009. The hearing was held on that date, with both ALTHC and TMIC participating. Both parties offered various documents into evidence. ALTHC presented testimony from Dr. Raker and the Claimant; TMIC presented testimony by David Alvarado, D.C. The record was closed that day, August 6, 2009.

SOAH has jurisdiction over 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. Under 28 TEX. ADMIN. CODE (TAC) § 148.14(a), the Petitioner, ALTHC, has the burden of proof in this proceeding.

II. DISCUSSION

The Claimant, who was ___ old and working as a ___ at the time of his injury, testified he originally was treated only for the hernia. In September 2003, he went to see Dr. Raker, who began treating him for his continuing back and hip pain. He stated Dr. Raker's treatments temporarily alleviated his pain and enabled him to move around. He was still working until the summer of 2006, when he retired.

Dr. Raker testified the Claimant's lumbar strain/sprain had become a chronic condition by the time he began treating him, presumably because of the lack of earlier diagnosis and treatment.

² The original decision did not recognize the compensability of the lumbar strain/sprain.

Claimant was not a viable surgical candidate, both because of his age and because his condition did not warrant surgery. He testified the Claimant had declined pain medication because of his employment as an armed security guard. Dr. Raker believed such medications also were not appropriate treatment because of the Claimant's age. The Claimant declined ESI injections for his condition.

In Dr. Raker's opinion, his use of spinal manipulation therapy and electrical stimulation was appropriate and necessary to relieve the Claimant's pain, which is one of the criteria for necessary treatment under the Labor Code. ALTHC also presented into evidence several medical articles, which Dr. Raker interpreted as supporting the use of spinal manipulation therapy for chronic lower back pain.

Dr. Alvarado agreed that the Claimant might be suffering from a chronic condition. He did not agree with ALTHC's course of treatment, however. He considered Dr. Raker's use of spinal manipulation therapy and electrical stimulation to be excessive. In his opinion, those passive modalities might be appropriate for occasional flare-ups of a condition, but not as a constant course of treatment. He testified that excessive use of those treatments encouraged dependency on the doctor rather than rehabilitation of the patient's condition. He found ALTHC's use of those modalities to be inconsistent with the Official Disability Guidelines (ODG) and with good medical practice.

Dr. Alvarado noted that the records he had received contained no formal evaluation or reevaluation of the Claimant's condition, did not prescribe a regimen of active home exercise, and did not contain a formal treatment plan. He also took issue with Dr. Raker's interpretation of the articles provided by ALTHC. In Dr. Alvarado's opinion, those articles supported the concept of time-limited passive care, followed by active independent rehabilitative measures.

In response to two of those criticisms, Dr. Raker stated he evaluated the Claimant's condition every time he saw him, and pointed to a mention of home exercises in his notes.

The ALJ finds that the articles supplied by ALTHC, combined with Dr. Raker's testimony,

support the medical necessity of the spinal manipulation therapy. As ALTHC pointed out, TEX. LAB. CODE ANN. § 408.021 states;

ENTITLEMENT TO MEDICAL BENEFITS. (a) 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. The employee is specifically entitled to health care that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

Dr. Raker and the Claimant testified that his treatment relieved the effects of the compensable injury, if only temporarily. Dr. Raker also explained why other forms of treatment, such as medication, were medically inappropriate for the Claimant. Dr. Raker also established that the Claimant was engaging in home exercises, although those were not well documented. Although Dr. Alvarado described the Claimant as being doctor-dependent, the only support for that assertion was the number of treatments themselves. The number of treatments does not necessarily disqualify those services from reimbursement, however.

The articles supplied by ALTHC establish only the efficacy of spinal manipulation therapy for chronic lumbar pain. They do not show electrical stimulation to be medically necessary for that condition. The testimony does not show whether one type of treatment, or both, relieved the Claimant's symptoms. Therefore, although ALTHC did prove the medical necessity of the spinal manipulation therapy, it did not prove the necessity of the electrical stimulation. The ALJ concludes ALTHC should be reimbursed only \$4,806.00, which is the amount of the disputed charges for spinal manipulation therapy, and not the remaining amount for the electrical stimulation treatments.

III. FINDINGS OF FACT

1. The Claimant, _____, sustained a compensable injury work-related incident on _____.
2. Originally, ____.'s injury was diagnosed as an inguinal hernia only, but it was later diagnosed by James Raker, D.C., of ALTHC as a lumbar strain/sprain as well.
3. Dr. Raker began treating the Claimant for the lumbar strain/sprain in September of 2003 and has continued to do so.
4. From January 20, 2006, through December 13, 2006, which are the disputed dates of service

in this proceeding, ALTHC provided the Claimant 89 units of spinal manipulation therapy (CPT Code 98941) and 91 units of electrical stimulation (Code G0283).

5. The workers' compensation carrier, Texas Mutual Insurance Company (TMIC), declined to pay for the spinal manipulation therapy and electrical stimulation provided during 2006, whereupon ALTHC filed a timely Request for Medical Dispute Resolution.
6. The Independent Review Organization (IRO) issued its revised decision, denying ALTHC's request, on February 12, 2008.
7. The request for hearing was transmitted to the Texas Department of Insurance's Division of Workers' Compensation (DWC) on February 15, 2008.
8. Adequate and timely notice of the hearing originally was sent to both parties May 5, 2008. The last order of continuance was sent to both parties June 12, 2009, setting the hearing for August 6, 2009.
9. The hearing was held on August 6, 2009, with both ALTHC and TMIC participating. Both parties offered various documents into evidence. The record was closed August 6, 2009.
10. The Claimant was ___ old and working as a ___ at the time of his injury.
11. The Claimant was still working until the summer of 2006, when he retired.
12. By the time Dr. Raker began treating him, the Claimant's lumbar strain/sprain had become a chronic condition.
13. The Claimant was not a viable surgical candidate, both because of his age and because his condition did not warrant surgery.
14. The Claimant declined pain medication because of his employment as an ____; those medications also were not appropriate treatment because of the Claimant's age.
15. The Claimant declined ESI injections for his condition.
16. ALTHC's treatments relieved the Claimant's back and leg pain, albeit temporarily.
17. The evidence supports the use of spinal manipulation therapy for chronic lower back pain.
18. The evidence does not support the use of electrical stimulation for chronic lower back pain.
19. ALTHC seeks reimbursement of \$6,626.00 for the spinal manipulation therapy and electrical stimulation it provided the Claimant, ____, during 2006.
20. The disputed charges for spinal manipulation therapy during 2006 total \$4,806.00.

IV. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over 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. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
3. Under 28 TEX. ADMIN. CODE § 148.14(a), the Petitioner, ALTHC, has the burden of proof in this proceeding.
4. ALTHC should be reimbursed for the disputed spinal manipulation therapy provided the Claimant.
5. ALTHC should not be reimbursed for the disputed electrical stimulation therapy provided the Claimant.
6. TMIC should reimburse ALTHC \$4,806.00, plus interest to the extent required by law.

ORDER

It is, therefore, ordered that Texas Mutual Insurance Company shall reimburse Ark-La-Tex Health Center, Inc., \$4,806.00, plus interest to the extent required by law, for the services in dispute in this matter.

SIGNED September 17, 2009.

**HENRY D. CARD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**