

SOAH DOCKET NO. 454-10-4936.M4
DWC NO.

INSIGHT DIAGNOSTICS INC.,
Petitioner

V.

AMERICAN HOME ASSURANCE
COMPANY,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Insight Diagnostics, Inc. (Provider), challenges the denial of reimbursement by American Home Assurance Company (Carrier) for services provided by John Coyle, D.O., in evaluating data and providing an Electrodiagnostic Functional Assessment (EFA) Report to the injured worker's treating physician. The Administrative Law Judge (ALJ) concludes that Provider is entitled to reimbursement from Carrier of \$1,908.86 for the services provided.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction in this proceeding. Therefore, these matters are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

On May 24, 2010, the Division issued its Medical Fee Dispute Resolution Findings and Decision. Provider requested a hearing at the State Office of Administrative Hearings (SOAH) to contest the Division's determination. A hearing convened before ALJ Howard S. Seitzman on September 23, 2010, at SOAH's facilities in Austin, Texas. Provider was represented by its Controller, Linda Nash. Carrier was represented by Robert R. Graves, Jr. The record closed the same day upon adjournment of the hearing.

II. DISCUSSION

A. Applicable Law

As a general rule, TEX. OCC. CODE ANN. § 155.056(a) provides that a person who is physically located in another jurisdiction but who, through the use of any medium, including an electronic medium, performs an act that is part of a patient care service initiated in this state and that would affect the diagnosis or treatment of the patient, is considered to be engaged in the practice of medicine in this state and is subject to appropriate regulation by the Texas Medical Board. However, TEX. OCC. CODE ANN. § 155.056(a) does not apply to a medical specialist located in another jurisdiction who provides only episodic consultation services on request to a physician licensed in this state who practices in the same medical specialty.¹

B. Facts in Evidence

Claimant, an injured worker, suffered a compensable injury on [redacted]. Carl R. Meisner M.D., a physician licensed to practice medicine in Texas, began treating Claimant on or about [redacted]. Dr. Meisner requested an Electrodiagnostic Functional Assessment (EFA) and Carrier preauthorized the EFA.² On September 24, 2008, Claimant underwent an EFA. The testing was physically conducted in Houston, Texas. The testing data was uploaded and transmitted to Insight Diagnostics Inc. (IDI) in Las Vegas, Nevada. John F. Coyle, D.O., who is not licensed to practice medicine in Texas but is licensed to practice in Nevada, reviewed the data and transmitted his evaluation to Dr. Meisner and to Carrier. Dr. Coyle never met, spoke, or otherwise communicated with Claimant. Carrier reimbursed Provider for some, but not all, of the charges related to the September 24, 2008 services.

C. Analysis and Decision

The facts are undisputed. The sole issue to be decided is whether Dr. Coyle, who is licensed

¹ TEX. OCC. CODE ANN. § 155.056(b)(1).

² An EFA is designed to evaluate the functional capacity of the musculoskeletal system. It is a modality that allows a diagnostician an opportunity to monitor a patient's range of motion, lifting capabilities, gripping capabilities,

to practice medicine in Nevada, should be denied reimbursement because he is not licensed to practice medicine in Texas. Dr. Coyle's only activity was to evaluate the data transmitted to him and provide Dr. Meisner with an evaluation of it. Dr. Coyle's findings and impressions were forwarded only to Claimant's treating physician and to Carrier. Any decisions regarding the treatment of Claimant based upon Dr. Coyle's evaluation belonged solely to Dr. Meisner. The services provided by Dr. Coyle are within TEX. OCC. CODE ANN. § 155.056(b)(1). Therefore, Provider is entitled to payment from Carrier for the September 24, 2008 services.

III. FINDINGS OF FACT

1. Claimant, an injured worker, suffered a compensable injury on
2. Carl R. Meisner M.D., a physician licensed to practice medicine in Texas, began treating Claimant on or about
3. Dr. Meisner requested an Electrodiagnostic Functional Assessment (EFA) and Carrier preauthorized the EFA.
4. An EFA is designed to evaluate the functional capacity of the musculoskeletal system. It is a modality that allows a diagnostician an opportunity to monitor a patient's range of motion, lifting capabilities, gripping capabilities, and pinching capabilities in order to assess the viability of alleged myofascial injuries.
5. On September 24, 2008, Claimant underwent an EFA. The testing was physically conducted in Houston, Texas. The testing data was uploaded and transmitted to Insight Diagnostics Inc. (IDI), in Las Vegas, Nevada. John F. Coyle, D.O., reviewed the data and transmitted his evaluation to Dr. Meisner and to Carrier.
6. Dr Coyle is licensed to practice medicine in Nevada.
7. Dr. Coyle is not licensed to practice medicine in Texas.
8. Dr. Coyle never met, spoke, or otherwise communicated with Claimant.
9. IDI and Dr. Coyle (collectively Provider) seek reimbursement of \$1,908.86 for the September 24, 2008 EFA data evaluation and report to Dr. Meisner.

and pinching capabilities in order to assess the viability of alleged myofascial injuries.

10. American Home Assurance Company (Carrier) denied reimbursement for services provided by Dr. Coyle, in evaluating data and providing an EFA report to Dr. Meisner.
11. Provider filed a timely request for medical fee dispute resolution with the Texas Department of Insurance, Division of Workers' Compensation (Division).
12. On May 24, 2010, the Division issued its Medical Fee Dispute Resolution Findings and Decision.
13. Provider timely requested a hearing at the State Office of Administrative Hearings (SOAH) to contest the Division's determination.
14. The Division sent notice of the hearing to the parties on June 30, 2010. The notice informed the parties of the date, time, and location of the hearing, the matters to be considered, the legal authority under which the hearing would be held, and the statutory provisions applicable to the matters to be considered.
15. Carrier's request for a continuance was granted, and the hearing on the merits was rescheduled from July 26, 2010, to September 23, 2010.
16. A hearing convened before ALJ Howard S. Seitzman on September 23, 2010, at SOAH's facilities in Austin, Texas. Provider was represented by its Controller, Linda Nash. Carrier was represented by Robert R. Graves, Jr. The record closed on September 23, 2010.

IV. CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. § 413.031 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. Provider had the burden of proof in this proceeding.
4. As a general rule, TEX. OCC. CODE ANN. § 155.056(a) provides that a person who is physically located in another jurisdiction but who, through the use of any medium, including an electronic medium, performs an act that is part of a patient care service initiated in this state and that would affect the diagnosis or treatment of the patient, is considered to be engaged in the practice of medicine in this state and is subject to appropriate regulation by the Texas Medical Board. However, TEX. OCC. CODE ANN. § 155.056(a) does not apply to a medical specialist located in another jurisdiction who provides only episodic consultation services on request to a physician licensed in this state who practices in the same medical

specialty. TEX. OCC. CODE ANN. § 155.056(b)(1).

5. The services provided by Dr. Coyle fall within the exception provided by TEX. OCC. CODE ANN. § 155.056(b)(1).
6. A party, including a health care provider, is entitled to medical dispute resolution for denial or reduction in payment for the service rendered. TEX. LAB. CODE ANN. § 413.031(a).
7. "Health care" includes all reasonable and necessary medical aid, medical examinations, medical treatments, medical diagnoses, medical evaluations, and medical services. TEX. LAB. CODE ANN. § 401.011(19).
8. Dr. Coyle, a doctor authorized to provide medical evaluations in Texas pursuant to TEX. OCC. CODE ANN. § 155.056(b)(1), is a health care provider entitled to seek medical review for the health care services he provided at the request of Claimant's treating physician.
9. IDI is entitled to payment from Carrier for the services provided by Dr. Coyle on September 24, 2008.

ORDER

IT IS ORDERED that American Home Assurance Company reimburse Insight Diagnostics Inc., \$1,908.86, together with any applicable interest, for the services provided by John F. Coyle, D.O., on September 24, 2008.

SIGNED November 19, 2010.

HOWARD S. SEITZMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS