

**SOAH DOCKET NO. 453-05-2977.M5  
TWCC MR NO. M5-04-3810-01**

<b>MAXIMUM THERAPEUTIC INITIATIVE,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
V.	§	<b>OF</b>
	§	
<b>PACIFIC EMPLOYERS INSURANCE COMPANY,</b>	§	
Respondent	§	<b>ADMINISTRATIVE HEARINGS</b>

**DECISION AND ORDER**

**I. DISCUSSION**

Maximum Therapeutic Initiative (Petitioner) requested a hearing to contest the September 22, 2004 Findings and Decision of the Texas Workers' Compensation Commission (Commission) denying reimbursement for treatment services provided to \_\_\_ (Claimant) from July 7, 2003, through July 11, 2003, because they were not medically necessary.<sup>1</sup> The Commission also reviewed fee dispute issues for the date of service of July 8, 2003. The Commission ordered reimbursement for all of the July 8, 2003 disputed fees except for CPT Code 97110 services. Respondent reimbursed Petitioner as ordered and did not request a hearing to contest the Commission's decision. This Decision and Order will address only the treatment services for which the Commission denied reimbursement (Disputed Services).

This decision DENIES the relief sought by Petitioner.

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<sup>1</sup> By Decision dated September 17, 2004, Maximus, an Independent Review Organization (IRO), determined the treatment services provided by Petitioner were not medically necessary.

The hearing convened on March 16, 2005, before Administrative Law Judge (ALJ) Howard S. Seitzman. Michael Portele represented Pacific Employers Insurance Company (Respondent). No representative for Petitioner appeared at the hearing, nor did Petitioner file a request to appear by telephone.<sup>2</sup> There were no contested issues of notice or jurisdiction. The hearing adjourned and the record closed the same day.

## **II. BACKGROUND**

Claimant sustained a work-related injury to her back on \_\_\_\_\_. Nineteen months after the injury, Claimant sought treatment from Petitioner. Petitioner provided neurological re-education, myofascial release, therapeutic procedures-group, one-on-one therapeutic exercises, and aquatic therapy to Claimant.

## **III. ANALYSIS**

Petitioner had the burden of proof in this proceeding. Because no evidence was submitted by Petitioner prior to the hearing or at the hearing, the ALJ finds that Petitioner did not meet its burden of proof with respect to the Disputed Services.

## **IV. FINDINGS OF FACT**

1. \_\_\_\_\_ (Claimant) sustained a work-related injury to her back on \_\_\_\_\_.
2. Claimant received chiropractic treatment from Maximum Therapeutic Initiative (Petitioner).
3. Petitioner provided treatment services to Claimant from July 7, 2003, through July 11, 2003.
4. Petitioner requested reimbursement for the treatment services provided to Claimant.
5. Pacific Employers Insurance Company (Respondent) denied reimbursement for the treatment

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<sup>2</sup> Before the hearing began, the ALJ attempted to contact Petitioner by telephone several times by calling William Ellis, listed in the record as a contact person for Petitioner, at 210/650-8835. The calls did not go through.

services.

6. By decision dated September 17, 2004, Maximus, an Independent Review Organization (IRO), determined the treatment services were not medically necessary.
7. The Texas Workers' Compensation Commission (Commission) reviewed a fee dispute between Petitioner and Respondent with respect to treatment services provided to Claimant on July 8, 2003 (Fee Dispute Services).
8. By decision dated September 22, 2004, the Commission ordered Respondent to reimburse Petitioner for all Fee Dispute Services provided to Claimant except for CPT Code 97110 services.
9. Respondent did not request a hearing to contest the Commission's decision ordering reimbursement.
10. By decision dated September 22, 2004, the Commission denied Petitioner reimbursement for all other treatment services provided to Claimant from July 7, 2003, through July 11, 2003.
11. Petitioner timely requested a hearing to contest the Commission's decision denying reimbursement for treatment services (Disputed Services).
12. A hearing was convened by Administrative Law Judge Howard S. Seitzman on March 16, 2005, in the hearing rooms of the State Office of Administrative Hearings. The hearing adjourned and the record closed the same day.
13. Petitioner did not appear at the hearing either in person or by telephone.
14. No evidence was submitted by Petitioner prior to the hearing or at the hearing.

## **V. CONCLUSIONS OF LAW**

1. The Texas Workers' Compensation Commission has jurisdiction to decide the issue presented pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 413.031.
2. 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.
3. Petitioner timely requested a hearing in this matter pursuant to 28 TEX. ADMIN. CODE

(TAC) §§ 102.7 and 148.3.

4. Notice of the hearing was proper and complied with the requirements of TEX. GOV'T. CODE ANN. ch. 2001.
5. Petitioner had the burden of proving the elements of its case by a preponderance of the evidence. 28 TAC §§ 148.21(h) and (i); 1 TAC § 155.41(b).
6. Petitioner failed to prove by a preponderance of the evidence that the Disputed Services were reasonable and medically necessary for the treatment of Claimant.
7. Petitioner is not entitled to reimbursement for the Disputed Services.

### **ORDER**

**THEREFORE IT IS ORDERED** that Petitioner Maximum Therapeutic Initiative is not entitled to reimbursement from Respondent Pacific Employers Insurance Company for the Disputed Services provided to Claimant.

**SIGNED April 11, 2005.**

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