

VIRGINIA:
IN THE WORKERS' COMPENSATION COMMISSION

12/27/95

ROBERT C. HAUSER, Claimant

Opinion by JOYNER
Commissioner

v. VWC File Nos. 173-70-03
 174-06-35

ACCURATE APPLIANCE, INC., Employer
STATE FARM FIRE AND CASUALTY COMPANY, Insurer

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REVIEW on the record by Commissioner Joyner,
Commissioner Tarr, and Commissioner Diamond at Richmond,
Virginia.

The claimant seeks Review of the Deputy Commissioner's
Opinion of August 17, 1995, holding that treatment rendered by
Dr. Edward A. Bauchou, chiropractor, relative to his industrial
injury of October 26, 1994, was beyond the parameters of the
governing statute, 54.1-2900, and was neither reasonable,
necessary, nor authorized.

The claimant is the president of the defendant employer and
is also employed as a repair technician. On October 26, 1994, he
was installing a washing machine in a customer's home when he
injured his left shoulder. The claimant's un rebutted testimony

is that he notified the carrier within one or two days of the

accident. He was not offered a panel of physicians until approximately two months later. In the interim, the claimant began treating with Dr. Bauchou. At the Hearing on August 15, 1995, the parties stipulated to his left shoulder injury and to the entry of a medical benefits award in connection with that occurrence. The only defense raised by the carrier was related to the chiropractic treatment rendered by Dr. Bauchou.

Dr. Bauchou testified that he treated the claimant through deep myofascial release techniques. Specifically, he applied force to the levator scapula, rhomboid, trapezius, and latissimus dorsi. Dr. Bauchou noted that each of these muscles are attached to the spine and the shoulder girdle. He stated that he made no specific adjustments to the spinal column.

Code 54.1-2900 defines the "practice of chiropractic" as:

the adjustment of the twenty-four movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs, medicines, serums or vaccines.

We find this definition to be broad enough to include the treatment rendered by Dr. Bauchou.

The claimant's injury is to the left shoulder. In *Wells v. Transcon Lines*, VWC File No. 136-93-00 (May 10, 1994), the Full

Commission upheld a Deputy Commissioner's determination that

chiropractors are not licensed to treat injuries to the shoulder which do not specifically involve the upper back. Consistent with that holding, we look to the area of the body treated. The upper axillary skeleton cannot be viewed in isolation. Rather, we consider whether the muscles treated, which had their insertions in the shoulder girdle, also had their origins at the spinal column.

Here, the musculature which was the subject of Dr. Bauchou's deep myofascial release technique originated at the spinal column. That there were no specific adjustments to the thoracic or cervical vertebrae is immaterial. Neither does the fact that the muscles treated insert in an area ancillary to the back, and the injury complained of is specific to that ancillary area, necessarily lead to a conclusion that the treatment was outside the scope of chiropractic. Treatment was rendered to muscles in the upper back for a left shoulder injury, and these muscles are responsible for some movements of the shoulder. We do not hold that all treatment rendered by a chiropractor for a shoulder injury is within the scope of chiropractic. The statute defines the "practice of chiropractic" relative to the vertebral area. Therefore, we hold that treatment rendered by Dr. Bauchou in this case to musculature attached to the vertebral column is within the scope of chiropractic practice.

Based on the foregoing, we find that the treatment rendered

by Dr. Bauchou was within the statutory parameters of the "practice of chiropractic." Further, we find that the treatment was reasonable, necessary, and authorized. The unrebutted testimony of the claimant was that he notified the carrier of his injury within a few days of its occurrence. No panel was offered until approximately two months later. In the absence of the carrier offering a panel, the claimant was free to choose his own treating physician.

We note defense counsel's assertion that the claimant only appeals the Deputy Commissioner's finding that Dr. Bauchou's treatment was outside the practice of chiropractic. However, in his request for Review filed August 31, 1995, he sought Review of the finding that the treatment was non-compensable, not the narrow issue of whether the treatment was consistent with 54.1-2900.

Accordingly, the award entered below is MODIFIED to include chiropractic treatment by Dr. Bauchou.

APPEAL

This Opinion shall be final unless appealed to the Virginia Court of Appeals within 30 days.

