

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CARL K. CREECH and DEPARTMENT OF THE NAVY,  
NAVAL SUPPLY CENTER, Norfolk, VA

*Docket No. 98-2241; Submitted on the Record;  
Issued February 18, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly refused to pay medical expenses incurred by appellant while he was treated by a chiropractor.<sup>1</sup>

The Board finds that the Office properly refused to pay the bills submitted by appellant's chiropractor for reimbursement.

On April 11, 1995 appellant, then a 37-year-old fuel systems worker, filed a claim for compensation alleging that on April 10, 1995 he sustained an injury to his left lower back while in the performance of duty. He stopped work on that day and returned to work on April 17, 1995.

The Office, on August 18, 1995, accepted appellant's claim for low back contusion and advised appellant that the Office would pay appropriate medical expenses following proper submission of charges to the Office.

The record reveals a medical report by Dr. James F. Allen, a neurologist, dated June 26, 1995. Therein, Dr. Allen reported that appellant was a new patient referred to him by the occupational health department at the employing establishment for a work-related injury. He arranged for a magnetic resonance imaging (MRI) scan of the lumbar and cervical spine and devised a treatment plan. Dr. Allen noted that appellant's problem appeared to be low back pain

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<sup>1</sup> The Board noted that the only issue appellant raised on appeal was the Office's refusal to pay for the chiropractor's medical bills.

with periodic numbness, globally in a nondermatomal fashion bilaterally in the lower extremities of equal proportions. He specifically noted that appellant reported the following:

“He states that he sought chiropractic treatment on his own for the past two to three weeks. Since he has been undergoing chiropractic treatment the pain between his shoulder blades and thoracic lumbar junction has improved. He has noticed no improvement in this periodic numbness or his other complaints.”

In a report dated October 10, 1995, Dr. Tod K. Blankenship, appellant’s chiropractor, stated that he had provided examination and treatment to appellant from May 11 to September 21, 1995. Dr. Blankenship noted on initial examination that appellant had an abnormal foraminal compression. He also stated that an MRI scan of the neck and low back revealed mild degenerative disc changes at L5-S1.

By decision dated August 1, 1997, the Office denied appellant’s claim for recurrence of disability<sup>2</sup> noting that medical evidence<sup>3</sup> submitted by Dr. Blankenship in support of appellant’s claim was of no probative value because Dr. Blankenship was a chiropractor and as such was not considered a physician under the Federal Employees’ Compensation Act.<sup>4</sup>

Section 8101(2) of the Act<sup>5</sup> provides that the term “physician” includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated by x-ray to exist. As Dr. Blankenship did not diagnose a subluxation of the spine demonstrated on x-ray, he is not a physician for purposes of the Act and his reports do not constitute competent medical evidence necessary to establish appellant’s claim.

The Board finds that the Office properly refused to pay the bills submitted by Dr. Blankenship for his treatment of appellant. In all the medical evidence and reports of record, there is no indication that appellant sustained a subluxation of the spine as a result of his April 10, 1995 injury. None of the reports submitted by Dr. Blankenship diagnose a subluxation of the spine. Therefore, under 5 U.S.C. § 8101(2) and 20 C.F.R. § 10.401(a), payment to a chiropractor for services rendered in this case cannot be authorized.

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<sup>2</sup> Appellant’s claim for recurrence of disability was filed to reopen his claim solely for the purpose of obtaining authorization for payment of chiropractic bills submitted by Dr. Blankenship.

<sup>3</sup> The Office also noted that Dr. Allen, Board-certified in neurological surgery, noted in a July 6, 1995 medical report that residuals from appellant’s April 10, 1995 work-related injury had resolved and that he could return to full duty without restriction.

<sup>4</sup> 5 U.S.C. § 8101(2).

<sup>5</sup> 5 U.S.C. §§ 8101-8193, 8101(2).

The decision of the Office of Workers' Compensation Programs dated August 1, 1997 denying the recurrence of disability claim and the payment of chiropractic expenses is hereby affirmed.

Dated, Washington, D.C.  
February 18, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member