

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
HEARINGS BUREAU

IN THE MATTER OF CASE NO. 1506-2006

MICHAEL H. PARDIS, D.C.,)	
)	
Petitioner,)	
)	
vs.)	FINAL AGENCY DECISION
)	
MONTANA ASSOCIATION OF)	
COUNTIES,)	
)	
Respondent.)	

I. Introduction

Michael H. Pardis, D.C., requested a contested case hearing on case number 032-05-00083-01, a Workers' Compensation claim insured by the Montana Association of Counties (MACO), the respondent. The hearing officer held a scheduling conference by telephone on February 6, 2006, during which the issue to be addressed during the hearing was established and confidentiality was discussed. Pursuant to the confidentiality agreement, the patient is identified by the case number.

This matter came to hearing by telephone on February 23, 2006. Dr. Pardis participated. Patient number 032-05-00083-01 (00083) appeared as a witness in his behalf. Norm Grosfield, Attorney at Law, represented MACO. Bonnie Knopf, claims adjuster, and Christine Hollings, claims assistant, appeared as witnesses for the respondent.

Exhibits 1 through 23, offered by Dr. Pardis, were admitted into the record without objection. Exhibits A through D, offered by the respondent, were admitted into the record without objection.

II. Issue

Is MACO liable to Dr. Pardis for additional chiropractic care to patient 00083?

III. Findings of Fact

1. Patient 00083 injured her low back and left shoulder at work on November 21, 2005. She filed a Workers' Compensation claim and first consulted Dr. Pardis on November 25, 2005. Dr. Pardis diagnosed her condition as lumbar, thoracic and cervical disc syndrome. He recommended reduced activity but she did not lose any work.

2. Between November 25, 2005, and January 7, 2006, Dr. Pardis treated patient 00083 29 times. During each visit, he consistently indicated that she was improving. By December 27, 2005, Dr. Pardis had treated her 25 times and did a re-evaluation. He indicated that she had experienced 80% improvement and experienced intermittent low back pain less than 25% of the time.

3. By letter dated January 10, 2006, Hollings advised Dr. Pardis and patient 00083 that no further chiropractic care would be authorized. Dr. Pardis last treated patient 00083 on January 7, 2006. Knopf referred her to Corvel Managed Care, who set up an independent medical examination by Paul A. Eodice, D.O.

4. Dr. Eodice evaluated patient 00083 on January 26, 2006, and determined that she had reached maximum medical improvement (MMI). He indicated that she has left leg weakness and abnormal gait secondary to post polio syndrome, not aggravated by the injury, and acute low back pain, resolved. He indicated that she does not have an impairment rating and he released her to normal activity without restrictions.

5. MACO paid Pardis for all treatments he provided to patient 00083.

6. Patient 00083 testified during the hearing that she is doing well, has been exercising at *Curves*, and does not have any significant symptoms at this time.

IV. Discussion¹

Authority to Treat

When Dr. Pardis embarked upon the treatment of patient 00083, MACO accepted liability for his bills. Dr. Pardis submitted supplemental chiropractic reports, office notes and bills indicating that patient 00083 was improving but had not reached MMI and required further treatment.

MACO maintains that Dr. Pardis determined that the patient 00083 had reached MMI on December 27, 2005, when he did the re-evaluation. However, there is no indication in his report of that date that Dr. Pardis found that she had reached MMI at that time. She was 80% recovered and had occasional low back pain.

When MACO advised Dr. Pardis that no further liability for treatment would be accepted, he ceased treating patient 00083 and filed for a contested case hearing, requesting authorization to treat during the 3 week period beginning January 8, 2006, and ending January 28, 2006.

Patient 00083 exercised her statutory right to choose the treating physician, selecting Dr. Pardis. Mont. Code Ann. § 39-71-1101(1). The same statute contains a list of four circumstances in which an injured worker loses the right to choose or retain a treating physician who is not a member of a managed care organization:

- (a) the injury results in a total loss of wages for any duration;
- (b) the injury will result in permanent impairment;
- (c) the injury results in the need for a referral to another medical provider for specialized evaluation or treatment; or
- (d) specialized diagnostic tests, including but not limited to magnetic resonance imaging, computerized axial tomography, or electromyography, are required.

Mont. Code Ann. § 39-71-1101(3).

¹ Statements of fact in this discussion are incorporated by reference to supplement the findings of fact. *Coffman v. Niece* (1940), 110 Mont. 541, 105 P.2d 661.

Dr. Pardis is not a member of a managed care organization. There is no evidence that patient 00083 has suffered or will suffer a total loss of wages at any time. There is no evidence that she will suffer a permanent impairment as a result of the injury. Dr. Eodice indicated that she should continue her exercise at *Curves*, that there are no restrictions, that no other treatment plan or work-up is needed and that she was released without restrictions. MACO has cited no authority for the proposition that such a recommendation constitutes the need for a referral to another medical provider for specialized evaluation or treatment or specialized diagnostic tests. The evidence does not establish that patient 00083 fits within any of the four circumstances articulated in Mont. Code Ann. § 39-71-1101(3) that would authorize MACO to require a change of treating physicians.

Since patient 00083 had reached maximum medical stability and because MACO paid Pardis for all treatment he provided to Patient 00083, the only current relief to which Dr. Pardis is entitled is an order confirming that he remains the treating physician for the patient 00083, for any future covered treatment that may become necessary.

V. Conclusions of Law

1. The department has jurisdiction to decide the dispute between Dr. Pardis and the Montana Association of Counties. Mont. Code Ann. § 39-71-2401(2) and § 39-71-704(6); *see also* Admin. R. Mont. 24.29.1404 and 24.1.101(2)(e)(I).
2. Dr. Pardis remains the treating physician of patient 00083 for patient 00083's injury. Mont. Code Ann. § 39-71-1101(1) and (3).
3. MACO is liable to Dr. Pardis for treatments provided as the treating physician of patient 00083. Mont. Code Ann. § 39-71-704(1)(a).

VI. Order

1. The Montana Association of Counties is liable to Dr. Michael H. Pardis, D.C., for future chiropractic treatment, if necessary, provided to patient 00083.

2. The Montana Association of Counties cannot refer patient 00083 whose treating physician is Dr. Pardis to managed care or a new treating physician without the consent of patient 00083 unless and until patient 00083's condition satisfies one of the requirements of Mont. Code Ann. § 39-71-1101(3)(a) through (d), which have not been met to date with regard to patient 00083.

DATED this 20th day of April, 2006.

DEPARTMENT OF LABOR & INDUSTRY
HEARINGS BUREAU

By: /s/ DAVID H. FRAZIER
David H. Frazier
Hearing Officer

Notice: This Order is signed by the Hearing Officer of the Department of Labor and Industry under authority delegated by the Commissioner. Any party in interest may appeal this Order to the Workers' Compensation Court within 30 days after the date of mailing of this Order as provided in Mont. Code Ann. § 39-71-2401(3) and Admin. R. Mont. 24.29.215(3). The Court's address is:

Workers Compensation Court
P.O. Box 537
Helena, MT 59624-0537
(406) 444-7794