

Mississippi Supreme Court Rules Chiropractic Cannot be Excluded from Workers' Compensation

COURT DEFINES CHIROPRACTORS AS PHYSICIANS

Editorial Staff

On October 30, 1991, Mississippi chiropractors won the right to be reimbursed under the state's Workers' Compensation Act.

The battle was waged by Earnestine White, a Hattiesburg woman and a patient of Kenneth R. Simpson, D.C. Ms. White filed suit against the Mississippi Workers' Compensation Commission after they denied a \$2,938 claim for chiropractic services she received from September 18, 1986, until April 2, 1987, despite workers' compensation payments to her orthopedic surgeon, orthopedist, and general practitioner.

The administrative law judge who first heard the case ruled that the chiropractic care was "unauthorized" and that the employer and the insurance company (Traveler's Insurance) were not liable for payment. Ms. White appealed the suit to the Forrest County Circuit Court, which also ruled in favor of the commission. The suit was then taken to the Mississippi Supreme Court which found in favor of Ms. White.

In the decision handed down by the Mississippi Supreme Court, there are a number of significant statements made by two of the state Supreme Court Justices:

Presiding Justice Hawkins

"Miss. Code Ann. 71-3-1 states the purpose of the Act (Mississippi Workers' Compensation) is for the 'rehabilitation or restoration to health and vocational opportunity' of an injured worker. If in fact a chiropractor can and does render a needed treatment for a work related injury, and not ordinarily provided by physicians, it would be anomalous indeed to exclude such benefits from the Act.

"Neither the Act nor this decision authorizes workers' compensation medical benefits to charlatans or payment for services not needed. We do not curb the authority of the Commission, (Workers' Compensation) but broaden it to meet the munificent purpose of the Act. There is a broad public policy behind the Act to provide the necessary treatment to restore the injured worker to health and productivity. This should be the focus of the Commission. Was the treatment necessary? Are the charges reasonable? These questions should be thoroughly investigated, but if both are answered in the affirmative (Ms.) White cannot be denied benefits solely because the service was rendered by a licensed chiropractor.

"Neither should we overlook that a sensitive nerve of the Fourteenth Amendment's equal protection of law clause is struck when any statute hinders a man or woman from earning a living at a task for which he or she is trained and educated."

Justice Robertson: Concurring

"...we find 'physician' defined as 'one who practices the healing art, including medicine and surgery,' which I do not take to exclude chiropractic.

"The Court's opinion sensitively summarizes our increasing appreciation of chiropractic. The opinion correctly defines 'medical' within the Act and within that definition correctly finds chiropractic to overlap with medicine. The Court correctly finds chiropractors within 'physician.'"

It should be noted that the decision of the Mississippi Supreme Court was unanimous. Mississippi now has full rights to participate in the workers' compensation program.

"We've have been fighting for this for 10 years," enthused Dr. Ray Foxworth of Jackson, president of the Mississippi Association of Chiropractors. "It is monumental for us," he concluded.

Editor's Note: This case is all the more significant when you consider the battle to win workers' compensation rights for chiropractic in Mississippi was waged and won by a chiropractic patient. The chiropractic profession owes Ms. Earnestine White a debt of gratitude for her tenacity in fighting for her right to choose chiropractic care all the way to the state supreme court. Ms. White, we thank you.

DECEMBER 1991