

Kansas Chiropractic Foundation Wins One For The Profession

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In Kansas, as in most states, chiropractic physicians are included in insurance statutes covering no-fault insurance benefits or personal injury protection (PIP) benefits. Our laws in Kansas make it clear that chiropractic physicians are to be treated in the same manner as allopathic or osteopathic physicians for purposes of providing services to those who are injured in automobile accidents. Naturally, this is the ideal. It normally does not work that way.

What happens all too often is that someone gets injured in an automobile accident and goes to their chiropractor for treatment. Instead of simply paying the chiropractor for the care that is rendered, the insurance company will send the patient to a orthopedic surgeon for evaluation. Naturally, the orthopedic surgeon will often render an opinion that the patient does not need chiropractic care. Therefore, the insurance company will simply refuse to pay any further chiropractic benefits to the injured party. There are provisions in Kansas law which provide that the patient can take the insurance company to court to force them to pay for reasonable and necessary benefits. Up until now, that has rarely occurred. But a recent event may make these insurance companies sit up and take notice.

For the last several years, our state association has employed the law firm of Dickson & Pope, P.A. of Topeka, Kansas as its legal counsel. Steve Dickson is the son of a chiropractor who still practices in El Dorado, Kansas, Dr. Jack Dickson. Mr. Dickson not only grew up with chiropractic, he has become an expert in all phases of chiropractic law and litigation through his countless hours of effort on behalf of this profession.

Recently, Mr. Dickson got the opportunity to put these skills to work in the context of our no-fault laws. He was referred one of the cases described above where State Farm Mutual Automobile Insurance had denied chiropractic benefits under a no-fault policy based on the advice of an orthopedic surgeon. Mr. Dickson did something unusual with that case. He filed a law suit against State Farm Mutual Automobile Insurance Company and requested a full-blown jury trial to determine whether State Farm was reasonable in denying chiropractic benefits.

Dickson & Pope, P.A. filed suit against State Farm on May 24, 1989. Their litigation strategy included deposing the two insurance adjusters who had been primarily responsible for denying chiropractic benefits. Through questioning that comes only from a great deal of experience with chiropractic, they were able to determine that State Farm had virtually ignored any consideration of chiropractic benefits in this case and literally hundreds of others.

Please keep in mind that the entire amount in controversy in this case was \$1,733. That was the amount the chiropractor charged which State Farm refused to pay. For that amount, Dickson & Pope, P.A. litigated this case for seven months, finally getting to trial on January 9, 1990. After a three-day

jury trial, the jury returned a verdict in favor of the plaintiff and against State Farm for the full \$1,733. Further, the jury found that State Farm was unreasonable in relying upon the advice of an orthopedic surgeon concerning chiropractic care. Because the jury found State Farm to be unreasonable in refusing to make these payments, after a hearing, the court ordered State Farm to pay \$12,516.88 for costs, expenses and attorney's fees to Dickson & Pope, P.A..

Our experience in Kansas has been that very few attorneys would take a case like this. Most of them feel that a jury will not believe the testimony of a chiropractor when pitted against that of an orthopedic surgeon. Mr. Dickson has convinced us that it is not the doctor's degree or his area of specialty but the attorney's knowledge of chiropractic, the strength of the case and the growing acceptance of chiropractic by the public, that result in these kinds of verdicts.

Editor's Note: Mr. Dickson has agreed to make his knowledge in this case available through the Kansas Chiropractic Foundation. In turn, the Kansas Chiropractic Foundation has ordered a copy of the transcript of the trial in order to make it available to other chiropractors and chiropractic attorneys around the country. We believe this material will be educational and beneficial to other chiropractors facing similar problems.

APRIL 1990