Opinion No. 78-06

April 14, 1978

OPINION OF: Toney Anaya, Attorney General

BY: Nicholas R. Gentry, Assistant Attorney General

TO: Honorable Manny M. Aragon, New Mexico State Senator, 3020 San Rafael, S.E. Albuquerque, New Mexico 87106

CHIROPRACTIC SERVICES; WORKMEN'S COMPENSATION ACT

According to Section 59-10-19.1 (A)&(B), N.M.S.A. 1953 Comp., employers are obligated to provide adequate chiropractic services to injured employees.

QUESTIONS

Is an employer who is subject to the Workmen's Compensation Act, Sections 59-10-1 et seq., N.M.S.A. 1953 Comp., legally obligated under Section 59-10-19.1(B) **supra,** to provide chiropractic treatment to injured employees?

CONCLUSIONS

Yes.

ANALYSIS

This question involves a resolution of an ambiguity in the statutory language and a determination of the legislative intent.

OPINION

The pertinent portions of Section 59-10-19.1, **supra,** read as follows:

"A. 'After injury and continuing as long as medical or surgical attention is reasonably necessary, **the employer shall furnish all reasonable surgical, physical rehabilitation services, medical, osteopathic, chiropractic, dental, optometry and hospital services and medicine,** not to exceed the sum of forty thousand dollars ($40,000), unless the workman refuses to allow them to be so furnished.' (Emphasis added.)

B. In case the employer has made provisions for, and has at the service of the workman at the time of the accident, adequate surgical, hospital and medical facilities and attention and offers to furnish these services during the period necessary, then the

employer shall be under no obligation to furnish additional surgical, medical or hospital services or medicine than those so provided; * * *."

Section 59-10.19.1(A), **supra,** expressly requires employers to provide or make available to injured employees chiropractic services. However, subsection B then provides that if "adequate surgical, hospital and medical facilities and attention" are provided by the employer, he is under no further obligation. Thus, the question arises whether chiropractic services are included within this language.

Clearly, these two subsections deal with the same subject matter. Thus, they are in pari materia and therefore must be construed together so as to give effect to the provisions of both. See **State ex rel. State Park and Recreation Commission v. New Mexico State Authority,** 76 N.M. 1, 411 P.2d 984 (1966). In addition, these two subsections must be considered together and read as a whole, with all provisions considered in relation to each other, in order to determine the legislative intent. See **State ex rel. Newsome v. Alarid,** 90 N.M. 790, 568 P.2d 1236 (1977); **Winston v. New Mexico State Police Board,** 80 N.M. 310, 454 P.2d 967 (1969). When these applicable principles of statutory construction are followed, all ambiguities are resolved. It is obvious that the phrase "adequate surgical, hospital and medical facilities and attention", as used in Section 59-10-19.1(B), **supra,** includes chiropractic services as referred to in subsection A.

Therefore, we can conclude that an employer is required to provide chiropractic services, as well as the other enumerated services. However, once such services are provided in an adequate form by the employer, he is under no further obligation. Any other conclusion would be clearly erroneous and contrary to the legislative intent. See also Opinions of the Attorney General Nos. 77-13 and 65-52 for related issues.

ATTORNEY GENERAL

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