

DECISION AND ORDER

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted there under.

ISSUE

A benefit contested case hearing was held on November 14, 2007, which was closed on December 3, 2007, to decide the following disputed issue:

1. Whether the preponderance of the evidence is contrary to the decision of the Independent Review Organization (IRO) that additional osteopathic manipulative therapy sessions are not reasonable and necessary health care services for the compensable injury of ____

PARTIES PRESENT

Claimant appeared and was assisted by ombudsman. Carrier appeared and was represented by attorney.

BACKGROUND INFORMATION

On ____, Claimant sustained a compensable injury to her lumbar spine when she was assisting a child who was having a seizure. Claimant has been receiving osteopathic manipulative therapy and deep tissue massages almost continually since the injury. Carrier has now denied additional osteopathic manipulative therapy sessions.

Claimant asserts that under Texas Labor Code Section 413.031 as amended by House Bill 1003 effective September 1, 2007, she is entitled to a new IRO process because there is no evidence that the doctor rendering the opinion holds a Texas medical license. Claimant did not raise the objection at the prehearing held on October 22, 2007, and has thereby waived it.

Under the Official Disability Guidelines (ODG) in reference to Low Back, Manipulation, the recommendation is:

"Recommended as an option. Medical evidence shows good outcomes from the use of manipulation in acute low back pain without radiculopathy (but also not necessarily any better than outcomes from other recommended treatments). If manipulation has not resulted in functional improvement in the first one or two weeks, it should be stopped and the patient reevaluated. For patients with chronic low back pain, manipulation may be safe and outcomes may be good, but the studies are not quite as convincing. While not proven by multiple high quality studies, a trial of manipulation for patients with radiculopathy may also be an option, when radiculopathy is not progressive, and studies support its safety. As with any conservative intervention in the absence of definitive high quality evidence, careful attention to patient response to treatment is critical. Many passive and palliative

interventions can provide relief in the short term but may risk treatment dependence without meaningful long-term benefit. Such interventions should be utilized to the extent they are aimed at facilitating return to normal functional activities, particularly work."

Dr. K, an osteopathic doctor, was persuasive in his testimony that additional osteopathic manipulation would not be beneficial to Claimant in accordance with the ODG. The IRO notes that the optimal duration for osteopathic manipulation is three to six treatments with a maximum of ten as well as there being lack of an anatomic basis for the requested treatment.

The greater weight of the credible evidence is not contrary to the decision of the IRO.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

FINDINGS OF FACT

1. The parties stipulated to the following facts:
 - A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
 - B. On ____, Claimant was the employee of Employer when she sustained a compensable injury.
2. The true corporate name of the insurance carrier is (self-insured); and the name and address of its registered agent for service of process is JV, (Address), (City), Texas (Zip Code).
3. Carrier delivered to Claimant a single document stating the true corporate name of Carrier, and name and street address of Carrier's registered agent which was admitted into evidence as Hearing Officer's Exhibit Number 2.
4. The preponderance of the evidence is not contrary to the decision of IRO that additional osteopathic manipulative therapy sessions are not reasonable and necessary health care services for the compensable injury of ____.

CONCLUSIONS OF LAW

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
2. Venue was proper in the (City) Field Office.
3. Additional osteopathic manipulative therapy sessions are not reasonable and necessary health care services for the compensable injury of ____.

DECISION

Additional osteopathic manipulative therapy sessions are not reasonable and necessary health care services for the compensable injury of ____.

ORDER

The carrier is not liable for the benefits at issue in this hearing. The claimant remains entitled to medical benefits for the compensable injury in accordance with Section 408.021.

Signed this 6th day of December, 2007.

Charles T. Cole
Hearing Officer