

MEDICAL CONTESTED CASE HEARING NO. 08008

M6-07-9520-01

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 thereunder.

ISSUE

A benefit contested case hearing was opened on October 23, 2007, which was closed on January 3, 2008, 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 a lumbar discogram is not reasonable and necessary health care services for the compensable injury of ____?

PARTIES PRESENT

Claimant appeared and was assisted by attorney. Carrier appeared and was represented by attorney. This hearing was closed on written argument of the attorneys and by affidavit of Claimant.

BACKGROUND INFORMATION

On ____, Claimant sustained a compensable injury to his lumbar spine and other parts of his body. After initial emergency room treatment and a visit to his family doctor, he was referred to Dr. RH, a surgeon, who has prescribed medication. Claimant's current treating Dr. H, who has administered physical therapy. Claimant has also received epidural steroid injection treatment from Dr. A. Claimant seeks lumbar discography but received an adverse decision from the IRO.

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

"Not recommended. In the past, discography has been used as part of the pre-operative evaluation of patients for consideration of surgical intervention for lower back pain. However, the conclusions of recent, high quality studies on discography have significantly questioned the use of discography results as a preoperative indication for either IDET or spinal fusion. These studies have suggested that reproduction of the patient's specific back complaints on injection of one or more discs (concordance of symptoms) is of limited diagnostic value. (Pain production was found to be common in non-back pain patients, pain reproduction was found to be inaccurate in many patients with chronic back pain and abnormal psychosocial testing, and in this latter patient type, the test itself was sometimes found to produce significant symptoms in non-back pain controls more than a year after testing.) Also, the findings of discography have not been shown to consistently correlate well

with the finding of a High Intensity Zone (HIZ) on MRI."

Claimant asserts that the greater weight and even the great weight of the evidence is contrary to the decision of the IRO in that the ODG provides criteria for performance of discography if the recommendation of the ODG is not followed; however, Claimant failed to provide any evidence based medicine contradicting the ODG.

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 he sustained a compensable injury.
2. The true corporate name of the insurance carrier is Texas Mutual Insurance Company; and the name and address of its registered agent for service of process is Mr. Russell Ray Oliver, President, 6210 East Highway 290, Austin, Texas 78723.
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 a lumbar discogram is 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. A lumbar discogram is not reasonable and necessary health care services for the compensable injury of ____.

DECISION

A lumbar discogram is 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 3rd day of January, 2008.

Charles T. Cole
Hearing Officer