

**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 held on February 7, 2008, to decide the following disputed issue:

Whether the preponderance of the evidence is contrary to the decision of the Independent Review Organization (IRO) that an EMG/nerve conduction study of the right and left upper extremities is not a reasonable and necessary health care service for the compensable injury of \_\_\_\_?

**PARTIES PRESENT**

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

**BACKGROUND INFORMATION**

On \_\_\_\_, Claimant sustained a compensable injury to his bilateral upper extremities and he was subsequently diagnosed with bilateral carpal tunnel syndrome. Claimant underwent a right carpal tunnel release on October 13, 2005 and a left carpal tunnel release on February 16, 2006. Claimant returned to work for another company in January 2007 operating heavy equipment. Claimant testified that he began experiencing an increase in symptoms in his bilateral hands/wrists after working for a few months. In July 2007, Dr. B diagnosed ulnar tunnel syndrome and a scar tissue on the left hand. Dr. B has recommended a repeat EMG/NCV of the bilateral upper extremities. Dr. B noted in his September 24, 2007 report that he did not believe the Claimant had evidence of recurrent carpal tunnel but there was a chance that the nerve regeneration had not fully healed which was causing the Claimant's pain.

The IRO reviewer, a board certified orthopedic surgeon, recommended that the EMG/nerve conduction studies of the bilateral upper extremities not be authorized. The IRO reviewer's rationale was that the medical records did not support a finding of clinical evidence of carpal tunnel syndrome (CTS) and that the same physical examination findings found within the medical record were insufficient to support the use of a repeat EMG/nerve conduction study which does not conform to the recommendations for the use of electrodiagnostic studies in the ODG Treatment Guidelines.

Under the Official Disability Guidelines (ODG) in reference to EMG/nerve conduction studies, the recommendation is:

EMG: Recommended in patients with clinical signs of CTS who may be candidates for surgery. Electrodiagnostic testing includes testing for nerve conduction velocities (NCV), but the addition of electromyography (EMG) is not generally necessary. NCV: Recommended in patients with clinical signs of CTS who may be candidates for surgery. Appropriate electrodiagnostic studies (EDS) include nerve conduction studies (NCS). Carpal tunnel syndrome must be proved by positive findings on clinical examination and should be supported by nerve conduction tests before surgery is undertaken. Mild CTS with normal electrodiagnostic studies (EDS) exists, but moderate or severe CTS with normal EDS is very rare. Positive EDS in asymptomatic individuals is not CTS. There is minimal justification for performing nerve conduction studies when a patient is presumed to have symptoms on the basis of radiculopathy.

The Claimant offered medical records from Drs. B and V indicating a repeat EMG/NCV of the bilateral upper extremities was recommended. Neither doctor addresses the ODG or provided an explanation, considering evidence based medicine, why the proposed procedure was reasonable and necessary treatment for the Claimant's bilateral upper extremity conditions. Based on the evidence presented, the Claimant failed to provide evidence based medicine sufficient to contradict the determination of the IRO and 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. 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.
3. The preponderance of the evidence is not contrary to the decision of IRO that an EMG/nerve conduction study of the left and right upper extremities is not a reasonable and necessary health care service 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. An EMG/nerve conduction study of the left and right upper extremities is not reasonable and necessary health care service for the compensable injury of \_\_\_\_.

### **DECISION**

An EMG/nerve conduction study of the left and right upper extremities is not reasonable and necessary health care service 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.

The true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE** and the name and address of its registered agent for service of process is:

**ROBIN M. MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST  
SUITE 300  
IRVING, TX 75063**

Signed this 7th day of February, 2008.

Carol A. Fougerat  
Hearing Officer