

MEDICAL CONTESTED CASE HEARING NO. 08020
M6-08-10079-01

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 contested case hearing was held on February 5, 2008, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the IRO decision upholding Carrier's denial of a request for a total knee replacement?

PARTIES PRESENT

Claimant appeared and was assisted by (Ombudsman). Carrier appeared and was represented by (Attorney).

BACKGROUND INFORMATION

On May 18, 2007, Dr. RT recommended that Claimant undergo a total knee replacement. Carrier denied the request and a second doctor concurred in the denial. Claimant appealed the denial to the Division and (PA) was selected as the Independent Review Organization (IRO). On November 2, 2007, the IRO concurred with Carrier's denial of the requested procedure, stating that "[t]he requested right total knee replacement ... would be pertaining to preexisting longstanding degenerative arthrosis of the knee..." and not the compensable injury. The recommended right knee replacement was held to be neither reasonable nor necessary to treat the compensable injury.

An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed (Texas Labor Code §408.021(a)). Although an insurance carrier's liability for medical benefits may not be limited or terminated by agreement or settlement (Texas Labor Code §408.021(d)), the Act does not require a carrier to pay for health care for non-compensable conditions that may also affect an injured worker's health.

In Docket Number 1, the hearing office determined that the underlying condition requiring a total knee replacement, Claimant's longstanding degenerative arthrosis of the right knee, is not compensable. Since the condition for which the procedure was recommended is not part of the compensable injury, the IRO decision that the requested treatment is neither reasonable nor necessary for the compensable injury is consistent with the preponderance of the evidence. Claimant offered no evidence-based expert medical evidence that would tend to show that the total knee replacement is required to treat any part of the compensable injury.

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 1) Field Office of the Texas Department of Insurance, Division of Workers' Compensation, holding hearings in the (City 2) satellite office.
 - B. Claimant sustained a compensable injury on _____, while the employee of Employer.
 - C. Claimant requested approval for a total knee replacement of the right knee.
 - D. Carrier denied approval of the requested total knee replacement.
 - E. The IRO, (PA), concurred with Carrier's denial of the requested total knee replacement.
2. Carrier delivered to Claimant a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. A total knee replacement is warranted, but only as treatment for Claimant's degenerative arthrosis of the right knee which is not part of the compensable injury.
4. The requested total knee replacement is not supported by evidence-based medical opinion for the treatment of the compensable injury of _____.
5. The IRO decision is supported by the preponderance of the evidence-based medical opinion.

CONCLUSIONS OF LAW

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
2. Venue is proper in the (City 1) Field Office, holding hearings in the (City 2) satellite office.
3. The preponderance of the evidence is not contrary to the IRO decision upholding Carrier's denial of a request for a total knee replacement.

DECISION

The preponderance of the evidence is not contrary to the IRO decision upholding Carrier's denial of a request for a total knee replacement.

ORDER

Carrier is not liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** 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, TEXAS 75063**

Signed this 7th day of February, 2008.

KENNETH A. HUCTION
Hearing Officer