

**MEDICAL CONTESTED CASE HEARING NO 08021
M6-08-10625-01**

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 19, 2008, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the IRO decision that repeat lumbar facet blocks are not reasonable and necessary medical treatment for the compensable injury of ____?

PARTIES PRESENT

Claimant appeared and was assisted by an (Ombudsman).

Carrier appeared and was represented by an (Attorney).

Also present were MV, Ombudsman Associate; and BR, Docket Clerk.

BACKGROUND INFORMATION

Claimant sustained a compensable lumbar injury on ___. He had 3 lumbar surgeries, with the last surgery being performed in January 2005. This surgery included a fusion with instrumentation. Claimant's present treating doctor provided a lumbar facet block on July 2, 2007. The procedure provided pain relief for less than one day. The treating doctor requested repeat lumbar facet blocks. The Carrier denied the request for repeat lumbar facet blocks. The Carrier's denial of medical treatment was referred to an Independent Review Organization (IRO) for review. The IRO decision was to uphold the Carrier's denial of treatment.

Texas Labor Code Section 408.021 provides that 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. Health care reasonably required is further defined in Texas Labor Code Section 401.011 (22a) as health care that is clinically appropriate and considered effective for the injured employee's injury and provided in accordance with best practices consistent with evidence based medicine or, if evidence based medicine is not available, then generally accepted standards of medical practice recognized in the medical community. Health care under the Texas Workers' Compensation system must be consistent with evidence based medicine if that evidence is available. Evidence based medicine is further defined in Texas Labor Code Section 401.011 (18a) to be the use of the current best qualified scientific and medical evidence formulated from credible scientific studies, including peer-reviewed medical literature and other current scientifically based texts and treatment and practice guidelines.

In accordance with the above statutory guidance, the Division of Workers' Compensation has adopted treatment guidelines by Division Rule 137.100. This rule directs health care

providers to provide treatment in accordance with the current edition of the Official Disability Guidelines (ODG), and such treatment is presumed to be health care reasonably required as defined in the Texas Labor Code. Thus, the focus of any health care dispute starts with the health care set out in the Official Disability Guidelines (ODG).

The IRO decision states that according to the Official Disability Guidelines (ODG), 70% relief for up to six weeks is recommended for successful median branch block. Claimant's report of pain relief was for less than one day. Also, the ODG recommended only 2 levels for median branch blocks and the treating doctor has requested more than 2 levels. Claimant's treating doctor finds that Claimant has radiculopathy and the ODG does not recommend facet blocks for radicular pain.

I find that repeat lumbar facet blocks are not recommended by the ODG as set out in the IRO decision. The preponderance of the evidence is not contrary to the IRO decision.

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).
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 3.
3. Claimant received lumbar facet blocks on July 2, 2007, with pain relief for less than one day.
4. The ODG recommends repeat lumbar facet blocks when the patient receives 70% pain relief for up to 6 weeks.
5. The preponderance of the evidence is not contrary to the IRO decision that repeat lumbar facet blocks are not reasonable and necessary.

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) Field Office.

3. The preponderance of the evidence is not contrary to the IRO decision that repeat lumbar facet blocks are not reasonable and necessary medical treatment for the compensable injury of ____.

DECISION

The preponderance of the evidence is not contrary to the IRO decision that repeat lumbar facet blocks are not reasonable and necessary medical treatment for the compensable injury of ____.

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 **STATE OFFICE OF RISK MANAGEMENT** and the name and address of its registered agent for service of process is:

For service in person, the address is:

**JONATHAN D. BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR.
STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701**

For service by mail, the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777**

Signed this 20th day of February, 2008.

Donald E. Woods
Hearing Officer