

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 opened on November 27, 2007, and closed on January 18, 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 MRI with and without contrast is reasonable and necessary health care services for the compensable injury of ____?

PARTIES PRESENT

Carrier appeared and was represented by an (Attorney). Claimant did not appear at the hearing and also did not respond to a 10-day letter.

BACKGROUND INFORMATION

The Claimant did not appear for the Contested Case Hearing scheduled for November 27, 2007, at 1:30 p.m. A letter was sent to the Claimant on December 4, 2007, offering her an opportunity to request that the hearing be reset to permit her to present evidence on the disputed issue. No response to that letter was received.

The IRO found that an MRI with and without contrast is reasonable and necessary health care services for the compensable injury of ____, based on the Official Disabilities Guidelines.

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).

Although the procedure approved herein by the IRO may be duplicative of a prior MRI, the Carrier failed to meet its burden of proof because it failed to offer evidence based medicine contradicting the findings of the IRO. The evidence from Carrier which was admitted in its entirety does not address the IRO's findings regarding the MRI in relation to the ODG.

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 Carrier 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 Division sent a single document stating the true corporate name of the Carrier and name and street address of Carrier's registered agent with the 10-day letter to the Claimant at Claimant's address of record. That document was admitted into evidence as Hearing Officer Exhibit Number 2.
3. Claimant failed to appear for the November 27, 2007 Contested Case Hearing and did not respond to the Division's letter offering her an opportunity to have the hearing rescheduled.
4. The preponderance of the evidence is not contrary to the decision of the Independent Review Organization (IRO) that a lumbar MRI with and without contrast is 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 is proper in the (City) Field Office.
3. A lumbar MRI with and without contrast is reasonable and necessary health care services for the compensable injury of ____.

DECISION

A lumbar MRI with and without contrast is reasonable and necessary health care services for the compensable injury of ____.

ORDER

Carrier is ordered to pay benefits in accordance with this decision, the Texas Workers' Compensation Act, and the Commissioner's Rules. Accrued but unpaid income benefits, if any, shall be paid in a lump sum together with interest as provided by law.

The true corporate name of the insurance carrier is **CUMIS INSURANCE SOCIETY, INC.**, and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201**

Signed this 18th day of January, 2008.

Charles T. Cole
Hearing Officer