

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 March 10, 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 left knee arthroscopy is not reasonable and necessary health care services for the compensable injury of ___?

PARTIES PRESENT

Petitioner Dr. S appeared by telephone *pro se*. Claimant did not appear, and his attendance was waived. Carrier appeared and was represented by an (Adjuster).

BACKGROUND INFORMATION

On ___, Claimant sustained a compensable injury to his left knee when he stepped through the wooden bottom of a cart. An MRI report notes a small chronic osteochondral erosion along the distal femoral trochlear surface and suggests the possibility of a loose body which was not visualized in the study. Dr. S has proposed left knee arthroscopy. The IRO determined that left knee arthroscopy is not reasonable and necessary treatment for the injury because no documentation regarding conservative management or clinical response to prior treatment was provided, because physical findings do not substantiate the functional limitations, and because there is not a definitive finding of a loose body either on plain film or MRI.

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).

Under the Official Disability Guidelines in reference to Knee and Leg, Diagnostic Arthroscopy, the following recommendation is made:

"Recommended as indicated below.

ODG Indications for Surgery™ -- Diagnostic arthroscopy:

Criteria for diagnostic arthroscopy:

1. Conservative Care: Medications. OR Physical therapy. PLUS

2. Subjective Clinical Findings: Pain and functional limitations continue despite conservative care. PLUS

3. Imaging Clinical Findings: Imaging is inconclusive.

(Washington, 2003) (Lee, 2004)"

According to the IRO, the left knee arthroscopy is not consistent with the ODG. Dr. S failed to meet his burden of proof. While Dr. S, treating doctor, gave his opinion, he failed to present evidence-based medical evidence as to the appropriateness of the proposed procedure; he failed to establish that no such evidence-based medical evidence is available; and he failed to present evidence that the proposed procedure meets generally accepted standards of medical practice recognized in the medical community.

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 preponderance of the evidence is not contrary to the decision of the Independent Review Organization (IRO) that left knee arthroscopy 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 is proper in the (City) Field Office.
3. Left knee arthroscopy is not reasonable and necessary health care services for the compensable injury of ____.

DECISION

Left knee arthroscopy is not reasonable and necessary health care services 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 **(SELF-INSURED)**, and the name and address of its registered agent for service of process is

(CORPORATION)
(ADDRESS)
(CITY), TEXAS (ZIP CODE)

Signed this 19th day of March, 2008.

Charles T. Cole
Hearing Officer