

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 21, 2008, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the IRO decision upholding Carrier's denial of the requested bilateral L4-5 facet injections?

PARTIES PRESENT

Claimant, although duly notified of the time, date and place of the hearing, failed to appear. Carrier appeared and was represented by (Attorney).

BACKGROUND INFORMATION

Claimant requested preauthorization for bilateral facet injections at L4-5. Carrier denied the request and the denial was appealed. (Company) was selected to act as the independent review organization (IRO).

After reviewing the requested procedure and Claimant's medical records, the IRO upheld Carrier's denial. The IRO determined that the requested bilateral L4-5 facet injections were neither reasonable nor necessary under the circumstances.

Claimant failed to appear at the initial contested case hearing (CCH) scheduled for January 24, 2008. A ten-day letter was sent to Claimant, offering him an opportunity to request that the hearing be reset in order to allow him to present evidence on the disputed issue. He contacted the Division before a decision and order was rendered, and this matter was set. Notice of the time, date, and place of the hearing was sent to all parties. At the time for the second setting, Claimant again failed to appear and the hearing was closed.

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). "Health care reasonably required" is defined 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, generally accepted standards of medical practice recognized in the medical community (Texas Labor Code §401.011(22-a)). "Evidence based medicine" means 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 (Texas Labor Code §401.011 (18-a)). In accordance with the above statutory guidance, Rule 137.100 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 reasonably required.

Claimant failed to offer evidence, based either upon evidence-based medicine or the generally accepted standard of medical practice, to rebut the determination by the IRO. Without having done so, Claimant has failed to meet his burden of proof in this matter.

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. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
2. Claimant sustained a compensable injury on __, while employed by (Employer).
3. Claimant requested approval of bilateral facet injections at L4-5.
4. Carrier refused to approve the requested bilateral facet injections at L4-5.
5. (Company), an IRO, reviewed the request for bilateral facet injections at L4-5 and concurred that the requested procedure is not medically necessary and should be denied.
6. The Division sent a single document stating the true corporate name of Carrier, and name and street address of Carrier's registered agent, with the 10-day letter to the Claimant at his address of record. The document was admitted into evidence as Hearing Officer's Exhibit Number 2.
7. There was no evidence that tended to show that the IRO decision was incorrect.
8. There was no evidence that tended to show that Claimant had good cause for his failure to attend the hearing scheduled for January 24, 2008.

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 upholding Carrier's denial of the requested bilateral L4-5 facet injections.

DECISION

The preponderance of the evidence is not contrary to the IRO decision upholding Carrier's denial of the requested bilateral L4-5 facet injections.

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 **LIBERTY MUTUAL INSURANCE** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 N. ST. PAUL STREET
DALLAS, TX 75201.**

Signed this 21st day of February, 2008.

KENNETH A. HUCHTON
Hearing Officer