

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.

ISSUES

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

Is the preponderance of the evidence contrary to the Independent Review Organization (IRO) decision that provocative discography at L4-L5 and L5-S1 with post discogram CT scan is not reasonable and necessary health care services related to the ___ compensable injury?

PARTIES PRESENT

Claimant was present at the hearing without legal representation, an (Ombudsman), was present to assist Claimant in the hearing. An (Attorney) at law, represented Carrier. SS was present as an observer.

BACKGROUND INFORMATION

The parties stipulated that Claimant sustained a compensable injury on ___ while employed by (Employer). Regarding the mechanism of the compensable injury, Claimant testified that he suffered injury to his lower back while using a crane to move a shaft to weigh it. According to Claimant, the shaft weighed approximately 75 to 100 pounds and was eight or nine feet in length. Claimant testified that he had placed the shaft in a box and was using a crane to move it. The crane slipped, and Claimant moved to avoid being hit by the shaft. As Claimant turned away, his back popped. Claimant testified that he had back pain that has progressed over time.

Medical evidence presented indicates Claimant began receiving medical treatment for his injury on ___. He was initially diagnosed as having a lumbar strain, but he developed radicular symptoms. An MRI was ordered and revealed a degenerated disc at L5-S1 with a central posterior herniation. Physical therapy and epidural steroid injections provided brief relief for Claimant's symptoms. A subsequent EMG/NCV suggested a left L5 radiculopathy. Another MRI performed August 20, 2007 showed a posterior annular tear with a high intensity zone in addition to facet arthropathy. Dr. W, to whom Claimant was referred for surgical consultation, recommended discogram at the L4-L5 and L5-S1 spinal levels to confirm the L5-S1 segment as the primary point at which Claimant's pain was being generated. The discogram was also recommended by Dr. V, the Division-selected designated doctor to whom Claimant was referred for maximum medical improvement and impairment rating assessment.

On September 11, 2007, Dr. W, Claimant's treating doctor, requested pre-authorization for lumbar discogram with post CT scan at L4-L5 and L5-S1. The pre-authorization request was denied on September 17, 2007 on the basis that the "MRI revealed disc pathology at L5-S1 and

discogram will add little, if anything.” The non-authorization determination was appealed; and an independent review was performed by an IRO.

In its written report dated November 30, 2007, the IRO upheld the previous adverse determination that provocative discography at L4-L5 and L5-S1 with post discogram CT scan is not a reasonable and necessary service for the ___ compensable injury. Claimant has the burden of proof, and he has failed to establish through evidence-based medicine that the requested health care services are reasonable and necessary.

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).
 - C. On ____, the employer had workers' compensation insurance coverage with Union Insurance Company.
 - D. Claimant sustained a compensable injury on ____.
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. On September 11, 2007, Dr. W, Claimant’s treating doctor, requested pre-authorization for lumbar discogram with post CT scan at L4-L5 and L5-S1.
4. The pre-authorization request was denied on September 17, 2007.
5. The non-authorization determination was appealed; and an independent review was performed by an IRO, upheld the previous adverse determination that provocative discography at L4-L5 and L5-S1 with post discogram CT scan is not a reasonable and necessary service for the ___ compensable injury.
6. Claimant failed to establish through evidence-based medicine that the requested provocative discography at L4-L5 and L5-S1 with post discogram CT scan is a reasonable and necessary health care service for the ___ compensable injury or that the preponderance of the evidence is contrary to the IRO decision that provocative discography at L4-L5 and L5-S1 with post discogram CT scan is not a reasonable and necessary service for the ___ compensable injury.

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 provocative discography at L4-L5 and L5-S1 with post discogram CT scan on the basis that such health care service is not a reasonable and necessary service for the ___ compensable injury.

DECISION

The preponderance of the evidence is not contrary to the IRO decision upholding Carrier's denial of provocative discography at L4-L5 and L5-S1 with post discogram CT scan on the basis that such health care service is not a reasonable and necessary service for the ___ compensable injury.

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 **UNION STANDARD INSURANCE COMPANY**, and the name and address of its registered agent for service of process is:

**WILLIAM CLARK THORNTON
122 WEST CARPENTER FREEWAY SUITE 350
IRVING, TEXAS 75039**

Signed this 12th day of March, 2008,

Sandra Weber Fullerton
Hearing Officer