

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 (CCH) was held on May 2, 2008, to decide the following disputed issue:

Is right wrist neuroplasty with decompression of the median nerve healthcare reasonably required in accordance with Texas Labor Code, Section 408.021?

PARTIES PRESENT

Claimant/Petitioner appeared and was represented by RB, Attorney.

Carrier/Respondent appeared and was represented by JP, Attorney.

BACKGROUND INFORMATION

Claimant worked for approximately 3 months as a lathe operator prior to developing pain and swelling in both wrists. The lathe process required Claimant to hold a tool in his hands to clean and polish a piece of metal. In the process of operating the lathe, he received vibration through his hands and wrists.

Claimant initially sought medical treatment from his family doctor for neck, shoulder and hand pain in August 2006. Claimant was referred to a neurologist for EMG testing. Dr. K concluded that Claimant has a median entrapment neuropathy at the level of the wrists bilaterally of a severe degree.

In September, Claimant changed treating doctor to Dr. H. Dr. H's initial work up on September 19, 2002 found a positive Phalen's test and a positive Tinel's tests. Claimant was placed in a conservative treatment program which included physical therapy, medication, wrist splint for use at night and activity modification. Claimant's condition improved, but did not resolve. Claimant was referred to Dr. M for possible surgical treatment in April 2007.

Dr. M requested approval from the Carrier for right wrist neuroplasty with decompression of the median nerve. The Carrier denied this request and also denied the request for reconsideration. The request was then referred to an IRO for review.

The IRO decision dated November 15, 2007 upheld the Carrier's denial of Dr. M's request for right wrist neuroplasty with decompression of the median nerve. This IRO decision has been appealed and that is the subject of this Contested Case Hearing.

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 quality 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 does not quote the operative provisions of the ODG, but does conclude that according to the ODG criteria, Claimant has failed to meet the normally accepted criteria for surgical intervention. The IRO report fails to document what criteria of the ODG is missing.

It is noted that the ODG provides 2 separate sections where Carpel Tunnel Release surgery may be indicated. The first section concerns severe Carpel Tunnel Syndrome. It lists 3 requirements: (1) muscle atrophy, (2) 2-point discrimination test greater than 6mm, (3) positive electrodiagnostic testing. The second grounds for surgery listed in the ODG is for mild/moderate Carpel Tunnel Syndrome and it lists 5 categories with numerous subcategories. The point is the IRO decision appears to have addressed only the first section of the ODG concerning severe Carpel Tunnel Syndrome. It failed to address the second section of the ODG. The Claimant can qualify for surgery under either section 1 or section 2 of the ODG.

Claimant has provided a summary report from Dr. M where he sets out the criteria for Carpel Tunnel Release surgery in the ODG for mild/moderate Carpel Tunnel Syndrome. He goes through each of the 5 categories and subcategories pointing out where Claimant complies with the requirements listed in the ODG. Dr. M's summary findings are supported by the medical records.

I find that Claimant has complied with the ODG indications for surgery in a mild/moderate Carpel Tunnel Syndrome case. I find the preponderance of the medical evidence to be contrary to the IRO decision. Claimant has met the ODG criteria for right Carpel Tunnel Release surgery.

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. During August and September 2006, 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. The IRO decision upheld the Carrier's denial of Dr. M's request for right wrist neuroplasty with decompression of the median nerve.
4. Dr. M provided a narrative report listing the ODG requirements for Carpel Tunnel Release surgery and showing how the Claimant has met each of those requirements.
5. The preponderance of the evidence is contrary to the IRO decision that right wrist neuroplasty with decompression of the median nerve is not healthcare reasonable required.

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. Right wrist neuroplasty with decompression of the median nerve is healthcare reasonably required in accordance with Texas Labor Code, Section 408.021.

DECISION

Right wrist neuroplasty with decompression of the median nerve is healthcare reasonably required in accordance with Texas Labor Code, Section 408.021.

ORDER

Carrier is ordered to pay benefits in accordance with this decision, the Texas Workers' Compensation Act, and the Commissioner's Rules.

The true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE COMPANY**, and the name and address of its registered agent for service of process is:

**ROBIN M. MOUNTAIN
ESIS, Inc.
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063**

Signed this 12th day of May, 2008.

Donald E. Woods
Hearing Officer