

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 June 26, 2008, to decide the following disputed issue:

1. Whether a hardware block with fluoroscopy is reasonably required health care for the compensable injury of _____?

PARTIES PRESENT

Claimant appeared and was represented by AG, lay representative. Carrier appeared and was represented by LP, attorney.

BACKGROUND INFORMATION

On _____, Claimant sustained a compensable injury to his lumbar spine for which he had surgeries on October 24, 2006, and November 6, 2007. Claimant's surgeon has requested a hardware block with fluoroscopy to determine if the hardware is a source of Claimant's persistent pain. The Independent Review Organization (IRO) determined that there is no clear medical necessity for the requested procedure because there is no documentation of "tenderness over the hardware, prominent hardware, or any diagnostic studies such as a CT scan that might show abnormal bursal formation or muscle irritation over the hardware." The IRO also noted that there is no documentation of structural instability or nonunion.

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. Section 401.011(22-a) defines health care reasonably required 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: (A) evidence based medicine; or (B) if that evidence is not available, generally accepted standards of medical practice recognized in the medical community." "Evidence based medicine" is further defined, by Section 401.011(18-a) as 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 making decisions about the care of individual patients. The Division of Workers' Compensation has adopted treatment guidelines under Division Rule 137.100. That rule requires that health care providers provide treatment in accordance with the current edition of the Official Disability Guidelines (ODG), and treatment provided pursuant to those guidelines is presumed to be health care reasonably required as mandated by the above-referenced sections of the Texas Labor Code. The initial inquiry, therefore, in any dispute regarding medical necessity, is whether the proposed care is consistent with the ODG.

In reaching its conclusion, the IRO relied upon evidence based medicine by citing the ODG, under the Back chapter, Hardware injection (block), as follows:

Recommended only for diagnostic evaluation of failed back surgery syndrome. This injection procedure is performed on patients who have undergone a fusion with hardware to determine if continued pain is caused by the hardware. If the steroid/anesthetic medication can eliminate the pain by reducing the swelling and inflammation near the hardware, the surgeon may decide to remove the patient's hardware. (Guyer, 2006)

Claimant failed to offer any evidence based medicine to dispute the findings of the IRO. The findings of the IRO are supported by the greater weight of the evidence.

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. 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. The preponderance of the evidence is not contrary to the findings of the Independent Review Organization that a hardware block with fluoroscopy is not reasonably required medical treatment 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 hardware block with fluoroscopy is not reasonably required medical treatment for the compensable injury of _____.

DECISION

A hardware block with fluoroscopy is not reasonably required medical treatment 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 **SENTRY INSURANCE, A MUTUAL COMPANY**, and the name and address of its registered agent for service of process is

**TREVA DURHAM
1000 HERITAGE CENTER CIRCLE
ROUND ROCK, TEXAS 78664**

Signed this 3rd day of July, 2008.

Charles T. Cole
Hearing Officer