MEDICAL CONTESTED CASE HEARING NO. 08105

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 benefit contested case hearing was held on July 30, 2008 to decide the following disputed issue:

> Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IR0) that a lumbar facet block at L4-5 and L5-S1 is not health care reasonably required for the compensable injury of _____?

PARTIES PRESENT

Claimant appeared and was assisted by RPR. Carrier appeared and was represented by CH, attorney.

BACKGROUND INFORMATION

On _____, Claimant sustained a compensable injury to his lumbar spine. Claimant was treated with epidural steroid injections as well as bilateral L4-5 and L5-S1 facet blocks in 2004 and 2005. The Claimant reportedly had good relief of his symptoms after the facet blocks. In 2005, Claimant underwent three spinal surgeries, a selective endoscopic discectomy with annuloplasty of L3-4, a selective endoscopic discectomy with annuloplasty of L4-5 and re-exploration of right L5 nerve, and a selective endoscopic discectomy with annuloplasty of L5-S1 and right L5-S1. Claimant had additional bilateral L4-5 and L5-S1 facet injections on four occasions in 2006 with up to 75% relief of symptoms. Claimant testified that the steroid injections provided no relief from his back pain but the facet blocks gave him six months of relief from his symptoms. Dr. U, the Claimant's treating doctor, has recommended another facet block at L4-5 and L5-S1. This request was denied by the self-insured (Carrier). On March 25, 2008, the IRO reviewer upheld the denial giving the rationale that the previous facet injections provided only temporary relief and the ODG treatment guidelines indicate that the treatment be more definitive in an attempt to give longer lasting relief.

Under the Official Disability Guidelines (*ODG*), in reference to facet joint intra-articular injections (therapeutic blocks), the recommendation is:

> Under study. Current evidence is conflicting as to this procedure and at this time no more than one therapeutic intra-articular block is suggested. If successful (pain relief of at least 50% for a duration of at least 6 weeks), the recommendation is to proceed to a medial branch diagnostic block and subsequent neurotomy (if the medial branch block is positive). If a therapeutic facet joint block is undertaken, it is suggested that it be used in consort with other evidence based conservative care (activity, exercise, etc.) to facilitate functional improvement. (Dreyfuss, 2003) (Colorado, 2001) (Manchikanti , 2003) (Boswell, 2005) See Segmental rigidity (diagnosis). In spite of the overwhelming lack of evidence for the long-term effectiveness of intra-articular steroid facet joint injections, this remains a popular

treatment modality. Intra-articular facet joint injections have been popularly utilized as a therapeutic procedure, but are not currently recommended as a treatment modality in most evidence-based reviews as their benefit remains controversial. The therapeutic facet joint injections described here are injections of a steroid (combined with an anesthetic agent) into the facet joint under fluoroscopic guidance to provide temporary pain relief. (Dreyfuss, 2003) (Nelemans-Cochrane, 2000) (Carette, 1991) (Nelemans, 2001) (Slipman, 2003) (van Tulder, 2006) (Colorado, 2001) (ICSI, 2004) (Bogduk, 2005) (Resnick, 2005) (Airaksinen, 2006).

Systematic reviews endorsing therapeutic intra-articular facet blocks:

Pain Physician, 2005: In 2005 there were two positive systematic reviews published in *Pain Physician* that stated that the evidence was moderate for short-term and limited for long-term improvement using this intervention. (Boswell, 2005) (Boswell, 2005) These results were based, in part, on five observational studies. These non-controlled studies were confounded by variables such as lack of confirmation of diagnosis by dual blocks and recording of subjective pain relief, or with measures that fell under verbal rating and/or pain relief labels (measures that have been reported to have problems with validity). (Edwards, 2005)

Pain Physician, 2007: Pain Physician again published a systematic review on this subject in 2007 and added one additional randomized trial comparing intra-articular injections with sodium hyaluronate to blocks with triamcinolone acetonide. The diagnosis of facet osteoarthritis was made radiographically. (Fuchs, 2005) Two randomized trials were not included, in part, as they failed to include controlled diagnostic blocks. These latter articles were negative toward the use of therapeutic facet blocks. (Lilius, 1989) (Marks, 1992) An observational non-controlled study that had positive results was included that made the diagnosis of lumbar facet syndrome based on clinical assessment of "pseudoradicular" lumbar pain, including evidence of an increase of pain in the morning and with excessive stress and exercise (no diagnostic blocks were performed). (Schulte, 2006) With the inclusion of these two articles the conclusion was changed so that the evidence for lumbar intra-articular injections was "moderate" for both short-and long-term improvement of low back pain. (Boswell2, 2007)

Complications: These included suppression of the hypothalamic-pituitary-adrenal axis for up to 4 weeks due to steroids with resultant elevated glucose levels for less than a week. (Ward, 2002) There have been rare cases of infection (septic arthritis, epidural abscess and meningitis). (Cohen, 2007) Complications from needle placement include dural puncture, spinal cord trauma, intraartierial and intravenous injection, spinal anesthesia, neural trauma, pneumothorax, and hematoma formation. (Boswell2, 2007)

Single photon emission computed tomography: (bone scintigraphy, SPECT scan): Not recommended although recent research is promising. This technique is recommended based on the ability of radionuclide bone scintigraphy to detect areas of increased function, depicting synovial areas of inflammation as well as degenerative changes. Thirteen of 15 patients had a > 1 standard deviation pain score improvement at 1 month versus 7 of 32 patients with a negative or no scan. The benefit of the injection lasted for approximately 3 months and did not persist to 6 months. (Pneumaticos2, 2006) See also Facet joint diagnostic blocks (injections); Facet joint pain, signs & symptoms; Facet joint radiofrequency neurotomy; Facet joint medial branch blocks (therapeutic injections); & Segmental rigidity (diagnosis). Also see Neck Chapter and Pain Chapter.

Criteria for use of therapeutic intra-articular and medial branch blocks are as follows:

1. No more than one therapeutic intra-articular block is recommended.
2. There should be no evidence of radicular pain, spinal stenosis, or previous fusion.
3. If successful (pain relief of at least 50% for a duration of at least 6 weeks), the recommendation is to proceed to a medial branch diagnostic block and subsequent neurotomy (if the medial branch block is positive).
4. No more than 2 joint levels may be blocked at any one time.
5. There should be evidence of a formal plan of additional evidence-based activity and exercise in addition to facet joint injection therapy.

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 *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*.

The Claimant testified that his lumbar spine symptoms were temporarily relieved by the prior facet blocks and that the relief lasted up to six months. Dr. U's February 20, 2008 report states that the Claimant does meet all five criteria set out in the *ODG* for the facet block and, therefore, the procedure should be approved. While it appears that the Claimant does meet the criteria for use of the therapeutic blocks, the Claimant offered no evidence based medicine to address the concerns of the IRO regarding the temporary relief from the injections or any other possible treatments with longer lasting affects as indicated in the *ODG*. The Claimant offered no medical opinion in response to the IRO or any medical records dated after March 5, 2008. The preponderance of the credible evidence presented is not contrary to the decision of the IRO**.**

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 the (Employer) when he

sustained a compensable injury.

2. Carrier delivered to Claimant a single document stating the true corporate name of Carrier, and name and street address of Carrier's registered agent which was admitted into evidence as Hearing Officer's Exhibit Number 2.

3. The treating doctor requested the Claimant undergo a lumbar facet block at L4-5 and L5-S1 to treat the compensable injury of _____.

4. The Claimant failed to provide evidence based medicine contrary to the IRO's determination that the requested service is not consistent with the *ODG* which indicates treatment should be more definitive in an attempt to give longer lasting relief.

5. A lumbar facet block at L4-5 and L5-S1 is not health care reasonably required 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 was proper in the (City) Field Office.

3. The preponderance of the evidence is not contrary to the decision of the IR0 that a lumbar facet block at L4-5 and L5-S1 is not health care reasonably required for the compensable injury of _____.

DECISION

Claimant is not entitled to a lumbar facet block at L4-5 and L5-S1 for the compensable injury of _____.

ORDER

The carrier is not liable for the benefits at issue in this hearing. The claimant remains entitled to medical benefits for the compensable injury in accordance with Section 408.021.

The true corporate name of the insurance carrier is the **(SELF-INSURED)** and the name and address of its registered agent for service of process is:

EXECUTIVE DIRECTOR
(ADDRESS)
(CITY), TX (ZIP CODE)

Signed this 30th day of July, 2008.

Carol A. Fougerat
Hearing Officer