

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 contested case hearing was opened on 08/05/08 and closed on 08/14/08 to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the IRO that the claimant is not entitled to Dynamic Weight-Bearing Lumbar Myelogram with Flexion and Extension views and Post-Myelo/CT for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by MM, ombudsman.
Respondent/Carrier appeared and was represented by AL, attorney.

BACKGROUND INFORMATION

It is undisputed Claimant was injured in the course and scope of his employment on _____. As a result of that compensable injury, Claimant had spinal fusion from T-10 through L-5. The case was submitted to the IRO for reconsideration of the previously denied request for Dynamic Weight Bearing Lumbar Myelogram with Flexion and Extension views and Post Myelo/CT.

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**.

Accordingly, in a medical necessity dispute, the first issue is whether the proposed care is consistent with the *ODG*. The IRO, identified as a Texas licensed Anesthesiologist, upheld the denial stating the initial mechanism of injury was not documented. There were no neurological findings noted on any of the charts reviewed. (Claimant had an EMG after the IRO reviewed the records. The decision of the IRO was based on the records available at the time). The reviewer noted the *ODG* guidelines do not specifically address weight bearing lumbar myelogram, they do address standing MRIs and state: "Standing MRI: Not recommended for general use.---" The reviewer states MRIs have largely replaced CT scanning, and in this case there is no contradiction to a standard MRI, therefore standing/weight-bearing CT myelogram is not indicated.

The Claimant did not present evidence-based medical evidence as to the appropriateness of the proposed procedure and did not establish that no such evidence-based medical evidence is available. Nor was evidence presented that the proposed procedure meets generally accepted standards of medical practice recognized in the medical community. The preponderance of the evidence is not contrary to the IRO decision.

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. Claimant was injured in the course and scope of his employment on _____.
2. Carrier delivered to Claimant/Petitioner 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. Dynamic Weight-Bearing Lumbar Myelogram with Flexion and Extension views and Post-Myelo/CT is not recommended by the *ODG*.
4. The preponderance of the evidence is not contrary to the decision of the IRO that Dynamic Weight-Bearing Lumbar Myelogram with Flexion and Extension views and Post-Myelo/CT is not recommended 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. The preponderance of the evidence is not contrary to the decision of the IRO that the Claimant is not entitled to Dynamic Weight-Bearing Lumbar Myelogram with Flexion and Extension views and Post-Myelo/CT for the compensable injury of _____.

DECISION

Claimant is not entitled to Dynamic Weight-Bearing Lumbar Myelogram with Flexion and Extension views and Post-Myelo/CT. 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 **SECURITY INSURANCE COMPANY OF HARTFORD AS SUCCESSOR IN INTEREST TO FIRE AND CASUALTY INSURANCE COMPANY OF CONNECTICUT**. and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.**

Signed this 16th day of August, 2008.

G. W. Quick
Hearings Officer