

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 opened on May 27, 2008, and closed on September 3, 2008, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the IRO that the Claimant is not entitled to a carpal tunnel release for the compensable injury of _____?

PARTIES PRESENT

Petitioner appeared and was assisted by IG, Ombudsman. Carrier appeared and was represented by MC, attorney.

BACKGROUND INFORMATION

Claimant sustained a compensable injury in the form of bilateral carpal tunnel syndrome while working as an office manager for the (Employer). She was initially seen by Dr. B, who treated her conservatively with splints, ibuprofen and ice. Claimant was referred to physical therapy and was treated for approximately two weeks. An EMG, performed by Dr. D, was normal. Claimant was then referred to Dr. L, an orthopedic surgeon. Dr. L treated the Claimant with a steroid injection to the right hand only, due to the severity of the pain in that hand. When the Claimant experienced complete resolution of the pain (temporarily), Dr. L recommended a carpal tunnel release of the right hand.

Dr. L requested preauthorization for the surgery from the Carrier. A denial letter was dated February 29, 2008, citing a negative EMG, inconsistent physical findings for carpal tunnel syndrome, as well as a lack of information regarding the outcome of the steroid injection. A reconsideration request was denied on March 12, 2008. That reviewer indicated that it was disturbing that the Claimant "has ulnar numbness only at night, no sensory findings on exam, equivocal physical finding between Dr. B and Dr. D, and a negative EMG. According to the Official Disability Guidelines (ODG), she does not meet the category of moderate CTS for which surgery is indicated."

An Independent Review was performed by CompPartners. The reviewer, a licensed orthopedic surgeon, upheld the Carrier's denial, citing the negative EMG, inconsistent physical findings and a lack of documentation regarding the outcome of the steroid injection. Overall, the physician found that the ODG guidelines for carpal tunnel release were not met.

The ODG guidelines are as follows:

Carpal tunnel syndrome may be treated initially with education, activity modification, medications and night splints before injection is considered, except in the case of severe CTS (thenar muscle atrophy and constant paresthesias in the median innervated digits), but outcomes from carpal tunnel surgery justify prompt referral for surgery in moderate to severe cases. Nevertheless, surgery should not be performed until the diagnosis of CTS is made by history, physical examination and possible electrodiagnostic studies. Symptomatic relief from a cortisone/anesthetic injection will facilitate the diagnosis, however the benefit from these injections although good is short-lived. Surgical decompression of the median nerve usually has a high rate of long-term success in relieving symptoms, with many studies showing success in over 90% of patients where the diagnosis of CTS has been confirmed by electrodiagnostic testing. (Patients with the mildest symptoms display the poorest post-surgery results, but in patients with moderate or severe CTS, the outcomes from surgery are better than splinting.) Carpal tunnel syndrome should be confirmed by positive findings on clinical examination and may be supported by nerve conduction tests before surgery is undertaken. Mild CTS with normal electrodiagnostic studies (EDS) exists, but moderate or severe CTS with normal EDS is very rare. Positive EDS in asymptomatic individuals is not CTS. Any contributions to symptoms by cervical radiculopathy (double crush syndrome) will not be relieved by the surgery. (Various references listed under “Surgical Considerations”) (Chung, 1998) (Verdugo, 2002) (Shin, 2000) (AHRQ, 2003) (Lyall, 2002) (Gerritsen-JAMA, 2002) (Verdugo-Cochrane, 2003) (Hui, 2004) (Hui, 2005) (Bilic, 2006) (Atroshi, 2006) (Ucan, 2006)

The Carrier’s witness, Dr. C, a physician specializing in Physical Medicine and Rehabilitation, testified in the hearing that after a review of the Claimant’s medical records, he felt that her carpal tunnel syndrome would be classified as “mild,” given the inconsistency in the physical findings. Thus, according to the ODG, she would not be a good candidate, at this time, for carpal tunnel release surgery. The Claimant relied on documentary evidence in support of her position.

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 qualified 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).

Health care reasonably required under the Texas Workers' Compensation Act must be evaluated based on evidence based medicine. In this case, the IRO decision evaluated the health care request in view of evidence based medicine. The Claimant's doctors did not do so. 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) when she 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. Dr. L recommended a carpal tunnel release of the right hand.
4. The IRO upheld the Carrier's denial, indicating the Claimant did not meet the ODG requirements, including inconsistent clinical findings, negative EMG, and little documentary evidence regarding the outcome of the steroid injection.
5. Dr. C, a specialist in Physical Medicine and Rehabilitation, testified that the Claimant does not meet the ODG criteria for a carpal tunnel release.
6. Right carpal tunnel release 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 is proper in the (City) Field Office.
3. The preponderance of the evidence is not contrary to the decision of the IRO that a right carpal tunnel release is not health care reasonably required for the compensable injury of _____.

DECISION

Claimant is not entitled to a right carpal tunnel release 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 **(SELF-INSURED)** and the name and address of its registered agent for service of process is:

**TO
(ADDRESS)
(CITY), TEXAS (ZIP CODE)**

Signed this 4th day of September, 2008.

Carolyn Cheu
Hearing Officer