

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 held on August 18, 2008, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the IRO decision that the Claimant is not entitled to 12 additional chiropractic visits for the compensable injury of _____?

PARTIES PRESENT

Claimant appeared and was assisted by MV, Ombudsman.

Carrier appeared and was represented by DP, Attorney.

BACKGROUND INFORMATION

Claimant drove a truck that carried cotton modules from the field to the cotton gin. On _____, Claimant was driving a farm tractor to pull his truck across a field. The tractor bounced under the heavy load which, in turn, jarred the Claimant. Claimant sustained injury to his lumbar and cervical spine.

Claimant has received conservative treatment which included physical therapy and steroid injections. Claimant continued to have pain in the lumbar and cervical area.

Claimant began treating with Dr. W, chiropractor, in August 2007. Dr. W provided eight treatment sessions including heat, VAX-D, ice and electrical muscle stimulation. Dr. W notes that the above treatment helped reduce the disc bulge, reduce the pain levels, and increase range of motion. Dr. W is now asking for 12 additional physical therapy sessions for a total of 20 sessions. The Carrier has denied the request of Dr. W, noting that Claimant has received more physical therapy sessions than has been authorized by the Official Disability Guidelines (ODG). Claimant requested review by an Independent Review Organization (IRO). The IRO decision upheld the Carrier's denial of the requested medical treatment. Claimant requested a Medical Contested Case Hearing (MCCH) to review the IRO decision.

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).

Dr. W provided three studies in an attempt to justify his requested treatment. He provides no expert analysis as to how these studies relate to the Claimant's condition. The three studies, a total of 11 pages, can best be characterized as preliminary studies with a limited number of patients. The first study deals with 20 patients, the second has 35 and the last study has 52. The final study properly concludes that the new traction procedure shows promise for pain relief in those patients that have failed other conventional approaches but "additional controlled prospective studies are being conducted to more effectively quantify these promising indicators."

However, even if the above studies were supportive of the traction therapy treatment, the Claimant has failed to provide expert medical evidence as to how this treatment fits into the treatment recommended by the study. In plain language, the doctor requesting the medical treatment must justify his request by some form of evidence based medicine. Stating that the treatment requested is justified by some scientific studies or treatment guidelines is not sufficient. There must be expert medical analysis as to how the treatment request comes within the evidence based medicine. That is lacking in this case.

The IRO decision correctly notes that the ODG recommends 10 sessions of physical therapy over an 8-week period for a lumbar sprain or strain. The preponderance of the medical 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).
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. Claimant sustained a compensable lumbar and cervical spine injury on _____.

4. Claimant has received more than 10 physical therapy sessions along with other conservative care for the _____ injury.
5. Evidence based medicine does not support the need for 12 additional chiropractic visits for the _____ injury.

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 IRO decision that Claimant is not entitled to 12 additional chiropractic visits for the compensable injury of _____.

DECISION

The preponderance of the evidence is not contrary to the IRO decision that Claimant is not entitled to 12 additional chiropractic visits 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 **TEXAS COTTON GINNERS' TRUST**, and the name and address of its registered agent for service of process is:

**TIMOTHY LOONAM, ADMINISTRATOR
210 BARTON SPRINGS, SUITE 575
AUSTIN, TEXAS 78704**

Signed this 27th day of August, 2008.

Donald E. Woods
Hearing Officer