

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 September 15, 2008, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that MRI left knee with contrast and MRI right knee is not reasonably required health care for the compensable injury of (Date)?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by LJ. Respondent/Carrier appeared and was represented by CF.

BACKGROUND INFORMATION

Claimant was the only witness at the September 15, 2008, CCH. Claimant explained that she was injured when she was stocking in the backroom at her place of employment. She fell onto her right side landing on her right hip, twisting her back, and both knees were slammed into concrete.

On June 5, 2007, an MRI of the left knee without contrast and an MRI of the right knee without contrast were performed. The impression of the left knee was: 1) Grade-III/grade IV focal chondromalacia patellae; 2) Very mild simple joint effusion; 3) Truncation tear of the posterior-inferior most aspect of the posterior horn of the medial meniscus; 4) Mild patellar tendinosis; and 5) MRI artifact versus vertical tear of the body of the medial meniscus. The impression of the right knee was: 1) Grade-IV chondromalacia patellae; 2) Mild simple joint effusion; and 3) Diffuse intrasubstance degeneration seen throughout the medial and lateral meniscus without evidence of tear.

As a result of the June 5, 2007, left knee MRI, on July 10, 2007, Claimant underwent left knee arthroscopic surgery. During surgery, no tearing of the medial meniscus was found.

Claimant received Hyalgan injections in her left knee on the following dates: 1) November 2, 2007; 2) November 9, 2007; 3) November 16, 2007; 4) November 26, 2007; and 5) November 30, 2007. On January 9, 2008, Dr. E opined that the Hyalgan injections did not help her left knee very much, and she continued with pain, swelling, and decreased range of motion. Dr. E recommended a repeat MRI with gadolinium for the left knee to see that there was nothing torn, and another MRI study of the right knee to see if there was something else damaged. (See Claimant Exhibit 2, page 7). Carrier denied the pre-authorization request and also denied the

request for reconsideration. An IRO was requested, and on May 9, 2008, the IRO upheld the denial.

In evidence as Carrier Exhibit C is the IRO determination. In the "Analysis and Explanation" portion of the IRO determination it reads as follows:

This is a 54-year old female who has a date of injury of _____ while moving a stack of jugs of water the stack fell and forced the patient to the ground injuring the patient's low back twisting both of her knees. She has had an MRI of her left and right knees dating back to 06/05/07 each of which demonstrated severe degenerative changes of the undersurface of the patella. There is questionable tearing of the medial meniscus on the left. Each had a small joint effusion noted as well. Her left knee on 7/10/07 underwent arthroscopic chondroplasty of the patella, synovial resection of the patellofemoral joint, and she has had Hyalgan injections within her right knee.

The claimant has not reported a new injury. No new examination findings have been documented that would support an MRI. There is no evidence within the medical records to indicate that repeating her MRI's will provide any clinical information or changes in her clinical course of treatment. Based upon the medical records, repeat MRI of the left and right knee is not indicated.

The Official Disability Guidelines (*ODG*) address initial MRI's for the knee, but are silent with respect to repeat MRI's for the knees. Accordingly, in a medical necessity dispute, the first issue is whether the proposed care is consistent with the *ODG*. The IRO, identified as an orthopedic surgeon, upheld the denial of the repeat MRI's of the left and right knee. Dr. E, the recommending physician did not provide any evidence-based medicine to contradict the findings of the IRO determination. Dr. E initially recommended repeat MRI's of bilateral knees, and offered a letter dated July 1, 2008, that stated:

(Claimant) received Hyalgan injections in her left knee on the following dates: November 2, 2007; November 9, 2007; November 16, 2007; November 26, 2007; and November 30, 2007. These were erroneously transcribed as having been in the right knee.

(Claimant) returned for a follow-up visit on January 9, 2008. The Hyalgan injections did not help her left knee very much. She continued to have pain, swelling, and decreased range of motion. I have recommended a MRI with gadolinium to evaluate for torn cartilage, ligaments, and chondromalacia. I have also recommended work conditioning and work hardening both of which have been denied due to the error in the submitted dictation.

I hope this clarifies that (Claimant's) left knee is the one that arthroscopic surgery was performed on and also the knee that received the Hyalgan injections and that another MRI will be approved to evaluate that knee so that she may receive the proper treatment.

Dr. E offered another letter dated August 27, 2008, that stated as follows:

I would still recommend that we get an MRI study of the left knee with gadolinium to make sure there is nothing else going on in the knee. In addition, I would recommend that she be considered for her work restrictions based on another Functional Capacity Evaluation. From what her exam is like, I do not think she will be able to do any squatting, bending, stooping, kneeling, any stair climbing, or climbing any ladders. The Functional Capacity Evaluation would evaluate this much better than just a strict clinical office visit. I reiterate again that I think there is a need for repeat MRI study with gadolinium on the left knee.

In the instant case, Claimant has failed to meet her burden of proof. Claimant did not justify her need for repeat bilateral knee MRI's based on the *ODG* or any other evidence-based medical evidence. The preponderance of the evidence is not contrary to 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 (Employer) and 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. Claimant had initial bilateral knee MRI's performed on June 5, 2007, that showed a torn meniscus and chondromalacia of the left knee patella, and chondromalacia of the right knee patella.
4. As a result of June 5, 2007, left knee MRI showing a torn meniscus, a left knee arthroscopic chondroplasty of patella and synovial resection of the patellofemoral joint was performed on July 10, 2007, but no torn meniscus was found.
5. Claimant's physician, Dr. E, has requested repeat bilateral knee MRI's to make sure nothing else is going on.
6. MRI left knee with contrast and MRI right knee 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. The preponderance of the evidence is not contrary to the decision of the IRO that MRI left knee with contrast and MRI right knee is not reasonably required medical care for the compensable injury of (Date).

DECISION

The preponderance of the evidence is not contrary to the decision of the IRO that MRI left knee with contrast and MRI right knee is not reasonably required medical care 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 (**EMPLOYER**) and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TX 78701**

Signed this 16th day of September 2008
Cheryl Dean
Hearing Officer