

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 October 9, 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 therapeutic mattress for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by IG, ombudsman.
Respondent/Carrier appeared and was represented by BP, attorney.

BACKGROUND INFORMATION

The Claimant sustained a compensable lumbar spine injury on _____. Claimant underwent spinal surgery in 2005 and participated in a re-conditioning program post-surgery. Claimant was diagnosed with failed back syndrome and chronic low back pain after he underwent the microdiscectomy and the Claimant also suffers from facet arthrosis which he has not received any interventional procedures for at this time. Claimant testified that he continues to suffer from low back pain which radiates into his groin area and that his pain levels more intense when he gets up in the morning. Claimant's doctor has requested a therapeutic mattress and this request was denied by the Carrier and sent to an IRO who upheld the Carrier's denial on the basis that the Official Disability Guidelines (ODG) do not support the use of therapeutic or custom mattresses for the treatment of chronic low back pain; therefore, the request is not medically necessary.

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.

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 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 ODG.

The ODG notes the following in regard to mattress selection for low back pain:

There are no high quality studies to support purchase of any type of specialized mattress or bedding as a treatment for low back pain. Mattress selection is subjective and depends on personal preference and individual factors.

In a letter dated April 11, 2008, the Claimant's treating doctor, Dr. K, stated, "He [Claimant] continues to have ongoing symptoms and in my opinion would benefit from a therapeutic mattress for his bed. It is well known that back pain symptoms can be greatly improved with proper support from a good mattress. I think this is medically necessary for the ongoing support of this patient." Other than Dr. K's opinion that the Claimant's back symptoms would benefit from a new mattress, the Claimant failed to offer evidence-based medicine contrary to the determination of the IRO that a therapeutic mattress is not health care reasonably required for the compensable injury of _____.

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 sustained a compensable injury on _____.
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. The Claimant's treating doctor has recommended a therapeutic mattress to alleviate the Claimant's low back pain resulting from the _____ compensable injury.
4. The ODG does not support the use of therapeutic or custom mattresses for the treatment of chronic low back pain.
5. The Claimant failed to provide evidence based medicine contrary to the IRO's determination that a therapeutic mattress 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 therapeutic mattress is not health care reasonably required for the compensable injury of _____.

DECISION

Claimant is not entitled to a therapeutic mattress 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 **NATIONAL FIRE INSURANCE OF HARTFORD** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TX 75201**

Signed this 9th day of October, 2008.

Carol A. Fougerat
Hearing Officer