

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 17, 2008, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the IRO decision that Claimant is not entitled to left knee arthroscopy with debridement and possible lateral release for the compensable injury of _____?

PARTIES PRESENT

Claimant appeared and was assisted by JA, Ombudsman.

Carrier appeared and was represented by SB, Attorney.

BACKGROUND INFORMATION

On _____, Claimant received direct blow to the left knee, causing a left patellar dislocation while at work. She was treated at the emergency room and underwent a closed reduction in the operating room. Her treating doctor was Dr. P.

Claimant received conservative treatment to include physical therapy.

In March 2008, Claimant's treating doctor noted that Claimant's left knee range of motion was 130 degrees for flexion with her extensions only 10 to 12 degrees. In April 2008, Dr. P recommended left knee arthroscopy with possible lateral release. The Carrier denied the requested procedure and also denied the request on reconsideration. It is significant that the Carrier, in denying the reconsideration request, quoted from the Official Disability Guidelines (ODG). Claimant appealed the Carrier's denial to an IRO for review. The IRO decision, again, quoting from the ODG, upheld the Carrier's denial. The IRO decision was dated June 18, 2008.

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).

Claimant's latest medical opinion from Dr. P is dated June 9, 2008. After reviewing Claimant's condition, Dr. P states that he "would strongly recommend that due to the proleolytic response of the internal derangement within the knee that this be addressed sooner rather than later. We will submit once again to Workers' Compensation for a diagnostic arthroscopy for evaluation of the internal derangement of the knee and further treatments." There was no medical evidence presented by Claimant that addressed the IRO decision or attempted in any way to address the medical request from an evidence-based medicine approach. Claimant failed to provide evidence-based medicine sufficient to contradict the determination of the IRO and the preponderance of the credible evidence is not contrary to the decision of 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), 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. Left knee arthroscopy with debridement and possible lateral 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 IRO decision that Claimant is not entitled to left knee arthroscopy with debridement and possible lateral release for the compensable injury of _____.

DECISION

Claimant is not entitled to left knee arthroscopy with debridement and possible lateral 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 **FIDELITY AND GUARANTY INSURANCE COMPANY**, 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 20th day of October, 2008.

Donald E. Woods
Hearing Officer