

**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 14, 2008 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the IRO decision that Claimant is not entitled to a hospital bed and fracture frame bar for the compensable injury of \_\_\_\_\_?

**PARTIES PRESENT**

Claimant appeared and was represented by DR, Attorney.

Carrier appeared and was represented by RL, Attorney.

**BACKGROUND INFORMATION**

Claimant injured his right ankle when he tripped and fell on \_\_\_\_\_. He sustained an ankle fracture and has had numerous surgeries to the right lower extremity. In the process of treatment of the compensable injury, Claimant has developed Complex Regional Pain Syndrome (CRPS) that has progressed to affect both lower extremities.

At the hearing, Claimant testified that he is wheelchair bound. He has a powered wheelchair and a van that is wheelchair accessible. Claimant also testified that since January 2008, he has used a hospital bed with fracture frame bar. It is the payment of this hospital bed with fracture frame bar that is the subject of this medical dispute.

The initial request for this medical equipment was made by (Medical Supply Company), a company that sells the equipment on January 15, 2008. The Carrier denied the initial request and the request for reconsideration, noting that the treating doctor was the requesting party. A request for this medical equipment from the treating doctor was not offered into evidence at this hearing.

The Carrier's denial was appealed and the case was sent to an independent review organization (IRO) for review. On April 7, 2008, the IRO decision upheld the Carrier's denial of the request for a hospital bed with fracture frame equipment. Claimant timely appealed the IRO decision. Due to ongoing treatment and hospitalization, the Contested Case Hearing was not held until October 14, 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).

This is a difficult case in that neither the Claimant nor the Carrier offered evidence-based medicine to support their position. The Workers' Compensation Act contemplates such a situation. It provides that if evidence-based medicine is not available, then the test is to determine the generally accepted standards of medical practice recognized in the medical community (underline added). In the absences of evidence-based medicine, the "generally accepted standard" is the only other authorized standard.

This Contested Case Hearing is an appeal of the IRO decision. Although the IRO decision initially carried presumptive weight, evidence offered by Claimant was not sufficient to meet his burden of proof. Because no evidence-based medicine and no evidence of the generally accepted standards of medical practice recognized in the medical community were presented, the medical evidence is not contrary to the IRO decision. Claimant is not entitled to a hospital bed with fracture frame bar.

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. The IRO decision dated April 7, 2008 found that Claimant was not entitled to a hospital bed with fracture frame bar.
4. A hospital bed and fracture frame bar are 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 IRO decision that Claimant is not entitled to a hospital bed and fracture frame bar for the compensable injury of \_\_\_\_\_.

### **DECISION**

Claimant is not entitled to a hospital bed or a fracture frame bar 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 **SECURITY INSURANCE COMPANY OF HARTFORD**, and the name and address of its registered agent for service of process is:

**CORPORATION SERVICES COMPANY  
701 BRAZOS, SUITE 1050  
AUSTIN, TEXAS 78701**

Signed this 28th day of October, 2008.

Donald E. Woods  
Hearing Officer