

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 convened on December 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 a low pressure discogram with post discogram CT scan is not reasonably required health care for the compensable injury of _____?

PARTIES PRESENT

Although duly notified of the time, date and place of the hearing, Petitioner/Claimant failed to appear and failed to respond to a ten-day letter dated December 18, 2008. Respondent/Carrier appeared and was represented by RJ, attorney.

BACKGROUND INFORMATION

Claimant, by and through his doctor, Dr. KB, MD, requested approval for a low pressure discogram with post discogram CT scan. Carrier denied the request and an appeal to a utilization review agent resulted in continued denial of the request. Claimant then asked that an independent review organization determine whether the requested procedure should be pre-authorized. A physician reviewer with US Resolutions Inc., the IRO, upheld the denial of the requested procedure.

The party appealing the IRO decision has the burden to prove that the preponderance of the evidence is contrary to the decision. Claimant failed to adduce any evidence in this matter.

Although properly notified, Claimant failed to appear for the contested case hearing scheduled for December 15, 2008, at 1:30 p.m. A letter advising that the hearing had convened and that the record would be held open for ten days to afford Claimant the opportunity to respond and request that the hearing be rescheduled to permit him to present evidence on the disputed issues was mailed to Claimant on December 18, 2008. Claimant failed to respond to the Division's 10-day letter and, on January 9, 2009, the record was closed. Having failed to appear and offer evidence in support of his appeal of the IRO decision, Claimant failed to show that he is entitled to the relief he seeks.

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. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
2. On _____, Claimant was the employee of (Employer).
3. The Division sent a single document stating the true corporate name of the Carrier and the name and street address of Carrier's registered agent for service with the 10-day letter to the Claimant at Claimant's address of record. That document was admitted into evidence as Hearing Officer Exhibit Number 2.
4. Claimant failed to appear for the December 15, 2008, contested case hearing and did not respond to the Division's letter offering him the opportunity to have the hearing rescheduled.
5. Claimant failed to show that the preponderance of the evidence is contrary to the IRO decision that a low pressure discogram with post discogram CT scan is not medically necessary treatment for the compensable injury.
6. A low pressure discogram with post discogram CT scan is not reasonably required medical treatment for the compensable injury of _____.
7. Claimant did not have good cause for failing to appear at the contested case hearing.

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 low pressure discogram with post discogram CT scan is not reasonably required medical care for the compensable injury of _____.

DECISION

Claimant is not entitled to a low pressure discogram with post discogram CT scan 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 **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 N. ST. PAUL STREET
DALLAS, TX 75201.**

Signed this 9th day of January, 2009.

KENNETH A. HUCHTON
Hearing Officer