

**MEDICAL CONTESTED CASE HEARING NO. 09087  
M6-09-15714-01**

**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 January 21, 2009, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the IRO that the Claimant is not entitled to ACS Services: CPT code 64470 -- 50 x 1 thoracic facet injection @ T4 and CPT code 64472 -- 50 x 3 Additional levels @ T5 - T7 and CPT code 20551 x 5 Single tendon origin injections?

**PARTIES PRESENT**

Petitioner/Claimant appeared and was assisted by KW, ombudsman. Respondent/Carrier appeared and was represented by GP, adjuster.

**BACKGROUND INFORMATION**

Claimant sustained a compensable injury primarily to his thoracic spine. It was determined surgery was not a viable option. Since October 2004, Claimant has undergone six sets of thoracic facet injections, sometimes accompanied by ligament origin injections. He has consistently achieved 75-90% relief for a two month period and 40-60% relief for a six month period allowing him to continue to work without any significant interruption. He underwent the first of this current series of injections in June 2008, but the Carrier denied the second series. Carrier's peer review opines Claimant's injuries have resolved and no further care is needed. The URA reviews state the requested thoracic injections are not recommended under the Official Disability Guidelines. The IRO doctor, board certified in anesthesiology and pain management, agreed with the denial of the requested services finding the injections not medically necessary. However, in his explanation for his denial he opines a medial branch block would not be indicated or considered appropriate. In addition, an injection around the spinous processes at these same levels would affect the ability to diagnose the results of the median branch blocks. The two procedures, thoracic facet injections and medial branch blocks, are not the same treatment or procedure. Claimant's requesting doctor, Dr. S, a board certified anesthesiologist with a sub-certification in pain management since 1991, explained the difference between the two procedures. They are injections to two different areas of the spine, albeit close in proximity to each other. One is an injection to the nerve and the other to the irritated facet joint. The IRO reviewer's denial is based on rationale for a medial branch block, which is not the requested procedure. However, Claimant still has the burden of proof to establish the requested procedure is recommended by evidence-based medicine.

Under the Low Back Chapter of the Official Disability Guidelines, a thoracic facet injection discusses the following:

Not recommended. There is limited research on therapeutic blocks or neurotomies in this region, and the latter procedure (neurotomies) are not recommended. Recent publications on the topic of therapeutic facet injections have not addressed the use of this modality for the thoracic region. (Boswell, 2005) (Boswell2, 2005) Pain due to facet joint arthrosis is less common in the thoracic area as there is overall less movement due to the attachment to the rib cage. Injection of the joints in this region also presents technical challenge. A current non-randomized study reports a prevalence of facet joint pain of 42% in patients with chronic thoracic spine pain. This value must be put into perspective with the overall frequency of chronic pain in the cervical, thoracic and lumbar region. In this non-randomized study, 500 patients had 724 blocks. Approximately 10% of the blocks were in the thoracic region, with 35.2% in the cervical region and 54.8% in the lumbar. (Manchikanti, 2004)

Under the Low Back Chapter of the Official Disability Guidelines, tendon injections referred the reader to see Prolotherapy (sclerotherapy). The information under prolotherapy discusses the following:

Not recommended. There are conflicting studies concerning the effectiveness of prolotherapy, also known as sclerotherapy, in the low back. Lasting functional improvement has not been shown. The injections are invasive, may be painful to the patient, and are not generally accepted or widely used. Therefore, the use of prolotherapy for low back pain is not recommended at this time. (Colorado, 2001) (Yelland-Cochrane, 2004) (Yelland2, 2004) (Hooper, 2004) (Dagenais, 2005) (BlueCross BlueShield, 2006) A recent study concluded that ligament or tendon injections resulted in significant and sustained reductions in pain and disability, but no attributable effect was found for prolotherapy injections over saline injections. (Yelland, 2004) And, a recent meta analysis concluded, “On the basis of the scarce body of literature critically reviewed to date, the clinical efficacy of prolotherapy in treating osteoarthritis, low back pain, and other musculoskeletal conditions remains inconclusive.” (Kim, 2004) Interventional strategies, such as prolotherapy, botulinum toxin injections, radiofrequency denervation, and intradiskal electrothermal therapy, are not supported by convincing, consistent evidence of benefit from randomized trials. (Chou, 2008)

Dr. S agreed the Official Disability Guidelines state what they do, but he disagrees with their findings and recommendations. Dr. S testified the professional pain management societies disagree with the use of the Official Disability Guidelines to determine treatment for pain management, how they were written to support insurance companies, the studies they are based upon and how they are used by insurance companies to deny previously recognized care. He testified there are articles supporting this movement in the American Society of Preventional Pain Medicine. However, Dr. S did not cite any specific articles or studies. Additionally, Dr. S finds the Official Disability Guidelines are insufficient in their scope because they ignore anecdotal studies and experience on thousands of thoracic patients over decades. The purpose of the Official Disability Guidelines is to give guidance for treatment recommendations based upon peer-reviewed studies and evidence-based medicine rather than anecdotal claims or traditional practices as recommended by Dr. S. Dr. S and the patient were not able to support their request

based upon evidence-based medicine. Claimant did not meet his burden of proof and is not entitled to the injections.

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. On \_\_\_\_\_, Claimant sustained a compensable injury.
  - D. The Independent Review Organization determined Claimant should not have ACS Services: CPT code 64470 -- 50 x 1 thoracic facet injection @ T4 and CPT code 64472 -- 50 x 3 Additional levels @ T5 - T7 and CPT code 20551 x 5 Single tendon origin injections.
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. ACS Services: CPT code 64470 -- 50 x 1 thoracic facet injection @ T4 and CPT code 64472 -- 50 x 3 Additional levels @ T5 - T7 and CPT code 20551 x 5 Single tendon origin injections are 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 ACS Services: CPT code 64470 -- 50 x 1 thoracic facet injection @ T4 and CPT code 64472 -- 50 x 3 Additional levels @ T5 - T7 and CPT code 20551 x 5 Single tendon origin injections are not health care reasonably required for the compensable injury of \_\_\_\_\_.

### **DECISION**

Claimant is not entitled to ACS Services: CPT code 64470 -- 50 x 1 thoracic facet injection @ T4 and CPT code 64472 -- 50 x 3 Additional levels @ T5 - T7 and CPT code 20551 x 5 Single tendon origin injections 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 **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
701 BRAZOS STREET, SUITE 1050  
AUSTIN, TX 78701-3232.**

Signed this 23rd day of January, 2009.

KEN WROBEL  
Hearing Officer