

**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 December 16, 2008, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the IRO decision that Claimant is not entitled to pain management evaluation and treatment by Dr. DH for the compensable injury of \_\_\_\_\_?

**PARTIES PRESENT**

Claimant appeared and was assisted by JT, Ombudsman.

Carrier appeared and was represented by LH, Attorney.

**BACKGROUND INFORMATION**

Claimant worked as a baker in the Employer's bakery shop. He was injured on \_\_\_\_\_ in a slip and fall incident.

On June 5, 2008, Claimant changed treating doctor to Dr. C, a chiropractor. On June 19, 2008, Dr. C referred Claimant to Dr. DH, apparently for pain management treatment. The referral from Dr. C was not offered into evidence.

On June 24, 2008, the Carrier denied Dr. C's referral request. A reconsideration was denied by the Carrier on July 11, 2008. Claimant requested the Carrier's denial be forwarded for an independent review.

On September 8, 2008, an IRO decision upheld the Carrier's denial of pain management treatment. The Claimant has appealed the IRO decision to this Medical Contested Case Hearing (MCCH).

This is an unusual case in that both parties considered the request for evaluation by Dr. DH to be subject to the preauthorization rules. The rules concerning preauthorization are set out in Division Rule 134.600(p). There are 14 different categories of health care requiring preauthorization. A referral for pain management evaluation is not one of the health care services that needs preauthorization.

The treating doctor made a valid referral to a pain management doctor for evaluation. The preauthorization procedures do not apply. Once the pain management doctor evaluates

Claimant and makes recommendations for specific treatment, that treatment may be the subject of preauthorization by the Carrier.

The preauthorization process, including the IRO decision, was improperly conducted and is hereby set aside. Claimant, upon proper referral from a treating doctor, is authorized a medical evaluation to determine future treatment. It is the future treatment that may require preauthorization by the Carrier.

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).
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. Dr. C, the treating doctor, requested a pain management evaluation by Dr. DH and requested preauthorization of this referral procedure by the Carrier.
4. The Carrier denied preauthorization of the request for a pain management evaluation and Claimant requested review by the IRO process.
5. The IRO decision upheld the Carrier's denial of the preauthorization for the pain management evaluation.
6. The request for a pain management evaluation is not the proper subject of the preauthorization process and the IRO has no authority to review this request.

### **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 IRO decision is set aside, as it was not authorized under the Texas Workers' Compensation Act or Division Rules.

### **DECISION**

Claimant is entitled to pain management evaluation by Dr. DH for the compensable injury of \_\_\_\_\_.

**ORDER**

Carrier is ordered to pay benefits in accordance with this decision, the Texas Workers' Compensation Act, and the Commissioner's Rules.

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, TEXAS 78701**

Signed this 3rd day of February, 2009.

Donald E. Woods  
Hearing Officer