

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 22, 2009 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the IRO that the Claimant is not entitled to a ganglion block for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by NG, ombudsman.
Respondent/Carrier appeared and was represented by HGW, Jr., adjuster.

BACKGROUND INFORMATION

Claimant sustained a compensable injury on _____ when a door slammed against her right wrist. Claimant developed complex regional pain syndrome (CRPS) or Reflex Sympathetic Dystrophy (RSD) in her right upper extremity which has been treated with sympathetic blocks intermittently since 1997. The Claimant receives ganglion blocks when she experiences "flare ups" of her CRPS. Claimant has undergone approximately 48 stellate ganglion blocks for treatment of her right upper extremity condition since 1997. Claimant's treating doctor has recommended another ganglion block which was denied by the Carrier and referred to an IRO who determined that the recommended treatment was not medically necessary.

The IRO reviewer, board certified in chiropractic, physical medicine and rehabilitation and pain management, upheld the previous adverse determination noting that the reviewer had no medical records that reflect what value was derived from the 48 stellate ganglion blocks that the Claimant had already received. The reviewer went on the state that this information is "a prerequisite to continuing a modality, whether it be blocks, medication, etc. If such information exists, it is certainly not contained in the file, and therefore I do not have a basis to recommend ongoing stellate ganglion blocks."

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. Section 401.011(22-a) defines health care reasonably required 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: (A) evidence based medicine; or (B) if that evidence is not available, generally accepted standards of medical practice recognized in the medical community." "Evidence based medicine" is further defined, by Section 401.011(18-a) as 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 making decisions about the care of individual patients.

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 *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 *ODG*.

Pursuant to the *ODG* for stellate ganglion blocks:

Recommendations (based on consensus guidelines) for use of sympathetic blocks: (1) In the initial diagnostic phase if less than 50% improvement is noted for the duration of the local anesthetic, no further blocks are recommended. (2) In the initial therapeutic phase, maximum sustained relief is generally obtained after 3 to 6 blocks. These blocks are generally given in fairly quick succession in the first two weeks of treatment with tapering to once a week. Continuing treatment longer than 2 to 3 weeks is unusual. (3) In the therapeutic phase repeat blocks should only be undertaken if there is evidence of increased range of motion, pain and medication use reduction and increased tolerance of activity and touch (decreased allodynia) in physical therapy/occupational therapy. (4) There should be evidence that physical or occupational therapy is incorporated with the duration of symptom relief of the block during the therapeutic phase. (5) In acute exacerbations, 1 to 3 blocks may be required for treatment. (5) A formal test of the block should be documented (preferably using skin temperature). (6) Documentation of motor and/or sensory block should occur. This is particularly important in the diagnostic phase to avoid overestimation of the sympathetic component of pain.

Repeated blocks are only recommended if continued improvement is observed. Systematic reviews reveal a paucity of published evidence supporting the use of local anesthetic sympathetic blocks for the treatment of CRPS and usefulness remains controversial. Less than 1/3 of patients with CRPS are likely to respond to sympathetic blockade. No controlled trials have shown any significant benefit from sympathetic blockade.

The Claimant testified that the stellate ganglion blocks provide significant relief, if only temporarily, and that she is able to perform daily activities of life which she cannot do with the medications alone when she experiences an increase in her CRPS symptoms. Dr. A, a pain management physician, noted that the Claimant has exacerbations of remissions of RSD and, when she has exacerbations, stellate ganglion nerve blocks help to decrease the symptomology. In response to the opinion of the IRO, Dr. A states, "This patient's insurance company is denying the stellate ganglion nerve blocks with the argument that in the past she has received 30-40% pain relief with this injection. This is completely unacceptable. They want me to say the patient obtained 50% relief in order to authorize more treatments." Dr. A goes on to say, "When (Claimant) has an exacerbation of her symptomology, she not only experiences significant amounts of pain, but she also experiences vasomotor changes of the extremities and other symptomology related to her pathology. When that happens, providing her with this case stellate ganglion nerve blocks not only decreases the level of pain but also increases function and decreases the vasomotor changes." Dr. A responded to the IRO's concerns and the recommendations in the *ODG* stating that it must be taken into consideration that (Claimant)

improves in terms of function and quality of life with stellate ganglion nerve blocks. This is well documented in the medical records.

While the treating doctor, a medical doctor specializing in pain management, is reluctant to assign an arbitrary percentage for relief the Claimant has received from the prior blocks, it is clear from his records and recommendations, the vast amount of medical documentation dating back to 1997, and, specifically, the narrative report dated December 30, 2008, that the Claimant receives at least 50% relief from these blocks as well as increased function and quality of life. It is unclear exactly what records the IRO reviewer actually reviewed in this case, however, it is apparent from the medical records in evidence and the opinion of the pain management physician that the Claimant does meet the criteria suggested in the *ODG* for a ganglion block. In accordance with DWC Rule 133.308(t), the party appealing the IRO decision has the burden of overcoming the decision issued by the IRO by a preponderance of evidence-based medical evidence and the Claimant did provide evidence-based medical documentation (*ODG* criteria) sufficient to overcome the determination by the IRO and the medical evidence provided is sufficient to establish that she meets the criteria and recommendations suggested in the *ODG* for a stellate ganglion block for treatment of her compensable injury.

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. Claimant sustained a compensable injury on _____.
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 requested procedure is consistent with the recommendations in the *ODG*.
4. The preponderance of evidence-based medicine provided by the Claimant is contrary to the determination of the IRO.
5. The requested ganglion block is 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 contrary to the decision of the IRO that the Claimant is not entitled to ganglion block for the compensable injury of _____.

DECISION

Claimant is entitled to a ganglion block for the compensable injury of _____.

ORDER

Carrier is 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 **TASB MANAGEMENT FUND** and the name and address of its registered agent for service of process is

**JAMES B. CROW, SECRETARY
TEXAS ASSOCIATION OF SCHOOL BOARDS
RISK MANAGEMENT FUND
12007 RESEARCH BLVD
AUSTIN, TX 78759**

Signed this 6th day of February, 2009.

Carol A. Fougerat
Hearing Officer