

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.

ISSUE

A contested case hearing was held on February 18, 2009, to decide the following disputed issue:

Whether a preponderance of the evidence is contrary to the Independent Review Organization's decision denying Claimant a right total hip replacement with a three-day inpatient hospital stay.

PARTIES PRESENT

Petitioner/Claimant appeared, and was represented by Attorney LB; Respondent/Self-insured appeared, and was represented by Attorney GS. LC and GC attended the hearing on behalf of Self-insured and its third-party administrator, respectively.

BACKGROUND INFORMATION

Claimant, a police officer with self-insured city, sustained a compensable injury to his right hip and side when he fell from a balcony onto a staircase below while he and other officers were practicing SWAT maneuvers in an empty building. To date, the treatment to the hip portion of this injury has included medication, chiropractic manipulations, steroid injections, home exercises, and arthroscopic surgery, but since Claimant has experienced no lasting relief from any of these interventions, his doctor has recommended that he undergo hip replacement surgery.

The Independent Review Organization denied the requested procedure, citing a lack of documentation of recent conservative measures to treat Claimant's ongoing hip pain. Claimant's young age was also a factor in the IRO's decision, since the Official Disability Guidelines state that an individual under the age of fifty is not a candidate for hip replacement surgery. In response to the concerns regarding Claimant's age, Dr. M proposed using a Birmingham hip resurfacing system, which apparently has been shown to be successful in younger patients; however, the hearing record contains no evidence-based medical information regarding the efficacy of this procedure, and also fails to demonstrate that such information does not exist.

DISCUSSION

Section 408.021 of the Texas Labor Code 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 Official Diagnostic 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 ODG.

With regard to hip replacement surgery, the ODG sets forth the following:

Recommended when all reasonable conservative measures have been exhausted and other reasonable surgical options have been seriously considered or implemented. ([Colorado, 2001](#)) ([Dreinhofer, 2006](#)) ([Mears, 2002](#)) One high quality review concluded that in comparison with internal fixation, arthroplasty for the treatment of a displaced

femoral neck fracture significantly reduces the risk of revision surgery, but could cause greater infection rates, blood loss, and operative time and possibly an increase in early mortality rates. ([Bhandari, 2003](#)) In terms of surgical methods, one study concluded that no significant difference between posterior and direct lateral surgical approach was found. ([Jolles, 2004](#)) Total hip replacement performed through a minimally invasive incision of ≤ 10 cm compared with a standard incision of 16 cm offers no significant benefit in terms of the rate or ability of patients to mobilize and perform functional tasks necessary for safe discharge. ([Lawlor, 2005](#)) The anterior approach on the orthopaedic table is a minimally invasive technique applicable to all primary hip patients. This technique allows accurate and reproducible component positioning and leg-length restoration and does not increase the rate of hip dislocation. ([Matta, 2005](#)) Revision total hip arthroplasty is a reasonably safe and effective procedure for failed hip replacement. ([Saleh, 2003](#)) This study suggests that intervention programs in search of amendable factors to prevent surgical site infections (SSIs) should focus on timely administration of antibiotic prophylaxis. For patients undergoing elective total hip arthroplasty, the use of antibiotics with long vs short half-lives and broad vs narrow spectrums, timing of antibiotic administration before incision, and duration of antibiotic administration after surgery do not affect the incidence of surgical site infection. Only longer duration of surgery above the 75th percentile is independently associated with increased incidence of surgical site infection after elective total hip arthroplasty. ([van Kasteren, 2007](#)) The majority of patients who undergo total joint replacement are able to maintain a moderate level of physical activity, and some maintain very high activity levels. ([Bauman, 2007](#)) Patients who undergo total hip replacement for osteoarthritis (OA) report a noticeable long-term improvement in physical functioning, whereas age-matched population controls show a decline in function, according to the results of a recent study. The long-term improvement in the physical functioning of the cases is striking when set against the decline that occurred in controls. These findings add to the accumulating evidence that the benefits for physical functioning are sustained in the long-term and they suggest that those benefits are greatest in the patients who have the most severe radiographic changes of OA before surgery. ([Cushnaghan, 2007](#)) Both low back pain and spinal function are improved following total hip replacement surgery. This study demonstrates the clinical benefits of THR on back pain and is the first to clinically validate the hip-spine syndrome. ([Ben-Galim, 2007](#)) Accelerated perioperative care and rehabilitation intervention after hip and knee arthroplasty (including intense physical therapy and exercise) reduced mean hospital length of stay (LOS) from 8.8 days before implementation to 4.3 days after implementation. ([Larsen, 2008](#)) See also [Revision total hip arthroplasty](#).

ODG Indications for Surgery™ -- Hip arthroplasty:

Criteria for hip joint replacement:

- 1. Conservative Care:** Medications. OR Steroid injection. PLUS
- 2. Subjective Clinical Findings:** Limited range of motion. OR Night-time joint pain. OR No pain relief with conservative care. PLUS
- 3. Objective Clinical Findings:** Over 50 years of age AND Body Mass Index of less than 35. PLUS
- 4. Imaging Clinical Findings:** Osteoarthritis on: Standing x-ray. OR Arthroscopy.

A comparison of the ODG criteria with the evidence presented in this case reveals that Claimant exhibits most of the ODG criteria for hip replacement surgery. Specifically, Claimant has a body mass index under thirty-five, has used medication and undergone steroid injections, experiences nighttime joint pain, and has undergone arthroscopy. However, Claimant is not yet over fifty years of age, and therefore does not satisfy the ODG standard for hip arthroplasty. As Claimant has presented no evidence-based medical opinion to justify a departure from the ODG, and the IRO opinion based upon the ODG, a decision in self-insured's favor is appropriate with respect to the sole issue presented for resolution herein.

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. On _____, Claimant was employed by the (Self-Insured Employer).
2. On _____, Employer was self-insured for workers' compensation purposes.
3. On _____, Claimant sustained an injury arising out of the course and scope of his employment with Employer.
4. Self-insured delivered to Claimant a single document stating the true corporate name of Self-insured, and the name and street address of Self-insured's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
5. Claimant's surgeon, (Health Care Provider), M.D., recommended that Claimant undergo a right total hip replacement, with a three-day inpatient hospital stay.
6. The Independent Review Organization (IRO) determined that the requested services were not reasonable and necessary health care for Claimant's compensable injury of _____.
7. Claimant does not meet the criteria for hip replacement surgery as set forth in the ODG.
8. A right total hip replacement with a three-day inpatient hospital stay is not health care reasonably required for Claimant's 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. A preponderance of the evidence is not contrary to the IRO's decision to the effect that a right total hip replacement with a three-day inpatient hospital stay is not health care reasonably required to treat Claimant's compensable injury of _____.

DECISION

Claimant is not entitled to a right total hip replacement with a three-day inpatient hospital stay for his compensable injury of _____.

ORDER

Self-insured 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 self-insured is **(SELF-INSURED EMPLOYER)**, and the name and address of its registered agent for service of process is

**MAYOR
(ADDRESS)
(CITY), TEXAS (ZIP CODE)**

Signed this 27th day of February, 2009.

Ellen Vannah
Hearing Officer