

**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 March 23, 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 Occupational Therapy (3x3) = 9 visits, to include: 97003 Occupational Therapy Exercises Left Thumb (3xwk x 3wks); 97110 Physical Therapy Exercises Left Thumb (3xwk x 3wks); 97035 Ultrasound, Each 15 minutes Left Thumb (3xwk x 3wks); 97140 Manual Therapy Techniques Left Thumb (3xwk x 3wks); G0283 Electrical Stimulation Left Thumb (3xwk x 3wks).

**PARTIES PRESENT**

Petitioner/Claimant appeared and was assisted by LG, ombudsman. Respondent/Carrier appeared and was represented by SSB, attorney

**BACKGROUND INFORMATION**

The claimant sustained a compensable injury to the left thumb on \_\_\_\_\_. The claimant underwent trigger thumb release surgery on 8/22/08. The claimant developed a minor infection, which was cleared up by the 9/8/08 evaluation. The claimant's treating doctor on 10/22/08, requested the occupational therapy to the left thumb due to the claimant's complaints of tenderness and fullness at the scar tissue site.

Texas Labor Code Section 408.021 provides 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. Health care reasonably required is further defined 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 evidence based medicine or, if evidence based medicine is not available, then generally accepted standards of medical practice recognized in the medical community. Texas Labor Code Section 401.011 (22a). Evidence based medicine means the use of the current best qualified 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. Texas Labor Code Section 401.011 (18a). In accordance with the above statutory guidance, Rule 137.100 directs health care providers to provide treatment in accordance with the current edition of the Official Disability Guidelines (ODG), and such treatment is presumed to be reasonably required.

The ODG sets out its requirements for Physical/Occupational Therapy Guidelines for conditions of trigger finger and trigger thumb as follows:

**ODG Physical/Occupational Therapy Guidelines –**

Allow for fading of treatment frequency (from up to 3 visits or more per week to 1 or less), plus active self-directed home PT. More visits may be necessary when grip strength is a problem, even if range of motion is improved. Also see other general guidelines that apply to all conditions under Physical Therapy in the ODG Preface.

**Fracture of carpal bone (wrist) (ICD9 814):**

Medical treatment: 8 visits over 10 weeks

Post-surgical treatment: 16 visits over 10 weeks

**Fracture of metacarpal bone (hand) (ICD9 815):**

Medical treatment: 9 visits over 3 weeks

Post-surgical treatment: 16 visits over 10 weeks

**Fracture of one or more phalanges of hand (fingers) (ICD9 816):**

Minor, 8 visits over 5 weeks

Post-surgical treatment: Complicated, 16 visits over 10 weeks

**Fracture of radius/ulna (forearm) (ICD9 813):**

Medical treatment: 16 visits over 8 weeks

Post-surgical treatment: 16 visits over 8 weeks

**Dislocation of wrist (ICD9 833):**

Medical treatment: 9 visits over 8 weeks

Post-surgical treatment (TFCC reconstruction): 16 visits over 10 weeks

**Dislocation of finger (ICD9 834):**

9 visits over 8 weeks

Post-surgical treatment: 16 visits over 10 weeks

**Trigger finger (ICD9 727.03):**

Post-surgical treatment: 9 visits over 8 weeks

The general preface for Physical Therapy under the ODG states as follows:

**Physical Therapy Guidelines**

Physical medicine treatment (including PT, OT and chiropractic care) should be an option when there is evidence of a musculoskeletal or neurologic condition that is associated with functional limitations; the functional limitations are likely to respond to skilled physical medicine treatment (e.g., fusion of an ankle would result in loss of ROM but this loss would not respond to PT, though there may be PT needs for gait training, etc.); care is active and includes a home exercise program; & the patient is compliant with care and makes significant functional gains with treatment.

The Respondent/Carrier presented the opinion of Dr. DG who pointed to the preface of the ODG's Occupational therapy heading, which is encompassed under the Physical therapy heading. Dr. DG noted that occupational therapy is utilized where there is evidence of a musculoskeletal or neurological condition that is associated with functional limitations. Here, the treating doctor's medical records reveal that there is good range of motion after the surgical release and there are no functional limitations. Moreover, the treating doctor did not dispute that the sole reason for his request was the claimant's complaints of tenderness and fullness at the surgical site. The Petitioner/Claimant failed to show that the proposed course of care is medically necessary in light of evidence based medicine and the preponderance of the evidence is not contrary to the IRO decision.

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 \_\_\_\_\_, the claimant was the employee of (Self-Insured Employer).
  - C. On \_\_\_\_\_, the claimant sustained a compensable injury to the left thumb.
2. Self-Insured 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 IRO decision upheld the Self-Insured Carrier's denial of the requested occupational therapy to the left thumb because the requested procedure did not meet the criteria set out in the ODG.
4. The claimant underwent surgical release for left trigger thumb on 8/22/08.
5. The ODG allows for treatment in the form of occupational therapy for trigger thumb due to range of motion limitations or for functional limitations.
6. The claimant did not suffer from functional limitation or range of motion limitation after the surgical trigger thumb release.
7. The requested service is not consistent with the ODG criteria for trigger thumb.
8. The requested Occupational therapy (3x3)= 9 visits, to include: 97003 Occupational Therapy Exercises Left Thumb (3xwk x 3wks); 97110 Physical Therapy Exercises Left Thumb (3xwk x 3wks); 97035 Ultrasound, Each 15 minutes Left Thumb (3xwk x 3wks); 97140 Manual Therapy Techniques Left Thumb (3xwk x 3wks); G0283 Electrical Stimulation Left Thumb (3xwk x 3wks) 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 Occupational Therapy (3x3)= 9 visits, to include: 97003 Occupational Therapy Exercises Left Thumb (3xwk x 3wks); 97110 Physical Therapy Exercises Left Thumb (3xwk x 3wks); 97035 Ultrasound, Each 15 minutes Left Thumb (3xwk x 3wks); 97140 Manual Therapy Techniques Left Thumb (3xwk x 3wks); G0283 Electrical Stimulation Left

Thumb (3xwk x 3wks) is not health care reasonably required for the compensable injury of \_\_\_\_\_.

### **DECISION**

Claimant is not entitled to Occupational Therapy (3x3) = 9 visits, to include: 97003 Occupational Therapy Exercises Left Thumb (3xwk x 3wks); 97110 Physical Therapy Exercises Left Thumb (3xwk x 3wks); 97035 Ultrasound, Each 15 minutes Left Thumb (3xwk x 3wks); 97140 Manual therapy Techniques Left Thumb (3xwk x 3wks); G0283 Electrical Stimulation Left Thumb (3xwk x 3wks) for the compensable injury of \_\_\_\_\_.

### **ORDER**

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

**DSE, SUPERINTENDENT  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE)**

Signed this 24th day of March, 2009.

Virginia Rodríguez-Gómez  
Hearing Officer