

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 scheduled for December 8, 2008 but reset to and held on July 14, 2009 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the IRO decision that the Claimant is not entitled to spinal decompression therapy for the compensable injury of _____.

PARTIES PRESENT

Claimant appeared and was assisted by IG, Ombudsman. Carrier appeared and was represented by TW, Attorney.

BACKGROUND INFORMATION

Claimant sustained an injury to his lumbar spine on _____. The MRI performed on May 13, 2008 revealed findings of an L4-5 annular bulge which flattens the thecal sac with associated bilateral facet joint arthrosis and mild bilateral foraminal narrowing and L5-S1 moderate 7mm right disc herniation compressing the right S1 nerve root with moderate narrowing of the right neuroforamen. The Claimant was recommended for physical therapy and he underwent two therapy sessions in May 2008. After the MRI, the Claimant was recommended to undergo surgery. The Claimant testified that he did not wish to undergo the recommended surgical procedure and that he saw a television program on spinal decompression therapy so he sought out a doctor who performed this type of treatment. Claimant began treating with Dr. K, a chiropractor, who recommended a plan for 20 daily visits with procedures including spinal decompression, spinal manipulation, ice packs, interferential therapy, and exercise. The request for spinal decompression procedures was denied and the case was referred to an IRO.

The IRO reviewer, a chiropractor, upheld the Carrier's denial of the recommended therapy concluding that the vertebral axial decompression for treatment of low back injuries is not recommended. The IRO reviewer went on to note that decompression through traction and spinal decompression devices are not recommended for the treatment of acute, subacute, chronic or radicular pain syndrome and that there is insufficient evidence to recommend this treatment which is moderately costly, though not invasive.

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. Health care reasonably required is further defined in Texas Labor Code Section 401.011 (22a) 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. Health care under the Texas Workers' Compensation system must be consistent with evidence based medicine if that evidence is available. Evidence based medicine is further defined in Texas Labor Code Section 401.011 (18a) to be 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 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 Disability 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*. The IRO reviewer cited the *ODG* for low back powered traction devices which state, "Not recommended. While there are some limited promising studies, the evidence in support of powered traction devices in general, and specifically vertebral axial decompression, is insufficient to support its use in low back injuries. Vertebral axial decompression for treatment of low back injuries is not recommended."

The Claimant testified that he has undergone the decompression therapy and that the treatment relieved his radicular symptoms. Dr. K testified that the treatment was recommended because the Claimant had exhausted all conservative treatment. The Claimant was injured on _____ and had only undergone two physical therapy sessions when he started treating with Dr. K who recommended for the decompression therapy. Dr. K testified that he understood that decompression therapy was not recommended under the *ODG* but that the *ODG* were just guidelines and that there were numerous studies indicating the necessity and benefit of decompression therapy. Dr. K did not cite nor provide any of the studies he made reference to in his testimony. It appears that the decompression therapy was an elective treatment that the Claimant pursued as an option to spinal surgery; however, it is not consistent with the recommendations in the *ODG*. Considering the evidence and testimony presented, the Claimant failed to produce expert medical testimony based on evidence-based medicine to overcome the determination of the IRO and the preponderance of the medical 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 _____, Claimant was the employee of (Employer) when he sustained a compensable low back injury.

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 Claimant failed to provide evidence based medicine contrary to the IRO's determination that spinal decompression therapy is not a reasonable and necessary health care service 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 spinal decompression therapy is not health care service reasonably required for the compensable injury of _____.

DECISION

The Claimant is not entitled to spinal decompression therapy 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 **(SELF-INSURED)** and the name and address of its registered agent for service of process is:

(SELF-INSURED)
(ADDRESS)
(CITY), TX (ZIP CODE)

Signed this 15th day of July, 2009.

Carol A. Fougerat
Hearing Officer