

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 August 20, 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 lumbar MRI for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by DM, ombudsman.
Respondent/Carrier appeared and was represented by RL, attorney.

BACKGROUND INFORMATION

Claimant sustained a repetitive traumatic compensable injury on _____. During the course of treatment for Claimant's upper extremity injuries, a pain pump was surgically placed in her back. She began experiencing complications, and the pump was removed. After the pump was removed she continued experiencing troubles with walking, sitting and standing. These complications led her treating doctor, Dr. M, to opine that Claimant had new a problem, which he diagnosed as a lumbar disc and radiculopathy secondary to the placement of the pump. Dr. M determined that Claimant had never had an MRI, and thus subsequently requested an MRI, which was denied preauthorization. The IRO upheld the determination.

The rules concerning preauthorization are set out in Division Rule 134.600(p). Claimant correctly argues that Section 134.600 (p)(8) requires the preauthorization of a repeat MRI but does not require preauthorization of the first MRI. The evidence established that the MRI requested by Dr. M is the first such individual diagnostic study requested and is not a health care service that requires preauthorization.

The preauthorization process, including the IRO decision, was improperly conducted and is hereby vacated.

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. On _____, Claimant sustained a compensable injury.
 - D. The Independent Review Organization determined Claimant should not have a MRI.
- 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 MRI requested by Dr. M is the first such individual diagnostic study requested.
 - 4. Dr. M's request for MRI testing is not the proper subject of the preauthorization process and the IRO has no authority to review such 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. Since it was not authorized under the Texas Workers' Compensation Act or Division Rules, the IRO decision is set aside and vacated.

DECISION

Claimant is entitled to a MRI 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 **ARROWWOOD INDEMNITY COMPANY, SUCCESSOR IN INTEREST TO ROYAL INDEMNITY COMPANY, SUCCESSOR IN INTEREST TO SAFEGUARD INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701**

Signed this 3rd day of September, 2009

Alisha Darden
Hearing Officer