MEDICAL CONTESTED CASE HEARING NO. 10064
M6-09-21303-01

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 October 28, 2009 to decide the following disputed issue:

> Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that Claimant is not entitled to an SI injection under fluoroguide for his compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by JO, ombudsman. Respondent/Carrier was represented by MM, attorney.

BACKGROUND INFORMATION

It was undisputed that the Claimant sustained a compensable injury on _____, and the evidence showed that the injury was to multiple body parts due to a motor vehicle accident that occurred when the cement truck that the Claimant was driving overturned. Among other injuries, the Claimant suffered four fractures in his pelvic area and two fractures in his right leg. Eventually, he began to experience left hip and buttock pain, which has been diagnosed as possible sacroiliac joint dysfunction. The Claimant was referred to Dr. L by his treating doctor, Dr. K, and Dr. L ordered the SI injection under fluoroguide for pain management and to rule out sacroiliac joint dysfunction. The Carrier denied Dr. L's request twice and the IRO upheld the adverse determination, relying upon medical judgment/clinical experience and the *Official Disability Guidelines* (ODG).

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. The Commissioner of the

Division of Workers' Compensation is required to adopt treatment guidelines that are evidence-based, scientifically valid, outcome-focused and designed to reduce excessive or inappropriate medical care while safeguarding necessary medical care. Texas Labor Code Section 413.011(e). Medical services consistent with the medical policies and fee guidelines adopted by the commissioner are presumed reasonable in accordance with Texas Labor Code Section 413.017(1).

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. Also, in accordance with Division Rule 133.308 (t), "A decision issued by an IRO is not considered an agency decision and neither the Department nor the Division are considered parties to an appeal. In a Contested Case Hearing (CCH), the party appealing the IRO decision has the burden of overcoming the decision issued by an IRO by a preponderance of evidence-based medical evidence."

The ODG provides the following for sacroiliac joint injections:

> Recommended as an option if failed at least 4-6 weeks of aggressive conservative therapy as indicated below. Sacroiliac dysfunction is poorly defined and the diagnosis is often difficult to make due to the presence of other low back pathology (including spinal stenosis and facet arthropathy). The diagnosis is also difficult to make as pain symptoms may depend on the region of the SI joint that is involved (anterior, posterior, and/or extra-articular ligaments). Pain may radiate into the buttock, groin and entire ipsilateral lower limb, although if pain is present above L5, it is not thought to be from the SI joint.
> *Innervation:* The anterior portion is thought to be innervated by the posterior rami of the L1-S2 roots and the posterior portion by the posterior rami of L4-S3.although the actual innervation remains unclear. Anterior innervation may also be supplied by the obturator nerve, superior gluteal nerve and/or lumbosacral trunk. (Vallejo, 2006) Other research supports innervation by the S1 and S2 sacral dorsal rami.
> *Etiology:* includes degenerative joint disease, joint laxity, and trauma (such as a fall to the buttock). The main cause is SI joint disruption from significant pelvic trauma.
> *Diagnosis:* Specific tests for motion palpation and pain provocation have been described for SI joint dysfunction: Cranial Shear Test; Extension Test; Flamingo Test; Fortin Finger Test; Gaenslen's Test; Gillet's Test (One Legged-Stork Test); Patrick's Test (FABER); Pelvic Compression Test; Pelvic Distraction Test; Pelvic Rock Test; Resisted Abduction Test (REAB); Sacroiliac Shear Test; Standing Flexion Test; Seated Flexion Test; Thigh Thrust Test (POSH). Imaging studies are not helpful. It has been questioned as to whether SI joint blocks are the "diagnostic gold standard." The block is felt to show low sensitivity, and discordance has been noted between two consecutive blocks (questioning validity). (Schwarzer, 1995) There is also concern that pain relief from diagnostic

blocks may be confounded by infiltration of extra-articular ligaments, adjacent muscles, or sheaths of the nerve roots themselves. Sacral lateral branch injections have demonstrated a lack of diagnostic power and area (sic) not endorsed for this purpose. (Yin, 2003)

Treatment: There is limited research suggesting therapeutic blocks offer long-term effect. There should be evidence of a trial of aggressive conservative treatment (at least six weeks of a comprehensive exercise program, local icing, mobilization/manipulation and anti-inflammatories) as well as evidence of a clinical picture that is suggestive of sacroiliac injury and/or disease prior to a first SI joint block. If helpful, the blocks may be repeated; however, the frequency of these injections should be limited with attention placed on the comprehensive exercise program. (Forst, 2006) (Berthelot, 2006) (van der Wurff, 2006) (Laslett, 2005) (Zelle, 2005) (McKenzie-Brown 2005) (Pekkafahli, 2003) (Manchikanti, 2003) (Slipman, 2001) (Nelemans-Cochrane, 2000) See also Intra-articular steroid hip injection; & Sacroiliac joint radiofrequency neurotomy.

Criteria for the use of sacroiliac blocks:

1. The history and physical should suggest the diagnosis (with documentation of at least 3 positive exam findings as listed above).
2. Diagnostic evaluation must first address any other possible pain generators.
3. The patient has had and failed at least 4-6 weeks of aggressive conservative therapy including PT, home exercise and medication management.
4. Blocks are performed under fluoroscopy. (Hansen, 2003)
5. A positive diagnostic response is recorded as 80% for the duration of the local anesthetic. If the first block is not positive, a second diagnostic block is not performed.
6. If steroids are injected during the initial injection, the duration of pain relief should be at least 6 weeks with at least > 70% pain relief recorded for this period.
7. In the treatment or therapeutic phase (after the stabilization is completed), the suggested frequency for repeat blocks is 2 months or longer between each injection, provided that at least >70% pain relief is obtained for 6 weeks.
8. The block is not to be performed on the same day as a lumbar epidural steroid injection (ESI), transforaminal ESI, facet joint injection or medial branch block.
9. In the treatment or therapeutic phase, the interventional procedures should be repeated only as necessary judging by the medical necessity criteria, and these should be limited to a maximum of 4 times for local anesthetic and steroid blocks over a period of 1 year.

The IRO decision states that the denial is based on a lack of documentation showing that the Claimant has undergone physical therapy and the outcome thereof, as well as that there is only one positive exam finding (as opposed to three or more, per the ODG) proving the existence of the diagnosis. The Claimant presented documentary evidence showing that he has undergone physical therapy and work hardening; in fact, additional

physical therapy was requested and the Carrier denied that request on May 7, 2009 on the basis that the Claimant had already had five months of physical therapy and 20 sessions of work hardening for this injury. After the physical therapy and work hardening, the Claimant still has had significant pain and symptoms, which prompted Dr. L to pursue the injection at issue herein. As it relates to the positive exam findings, the IRO notes that Dr. L documented that the Claimant had a positive Patrick sign bilaterally on April 27, 2009, but that there is no documentation of any other positive exam findings as set forth in the ODG above. The medical records in evidence do not reflect the notation of another positive exam finding relative to the tests listed in the ODG, although the evidence does show that at a rehabilitation evaluation of the Claimant on April 30, 2009, the Claimant refused to do the SI compression/distraction test, and the Claimant credibly testified that he would refuse to do maneuvers at physical examinations if he was in pain or if the maneuver caused pain. The Claimant also asserted at the hearing that the ODG does not require that there be three or more positive exam findings proving the existence of sacroiliac joint dysfunction, but he did not submit the testimony or report from a medical doctor to explain the requirements of the ODG. The Claimant did not establish that the preponderance of the evidence-based medical evidence is contrary to the IRO's decision in this case. For this reason, the Claimant is not entitled to an SI injection under fluoroguide for his compensable _____ injury based upon the IRO's report.

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 (Employer).

   C. On _____, employer had workers' compensation insurance coverage with Old Republic Insurance Co., carrier.

   D. On _____, the Claimant sustained a compensable injury while in the course and scope of his employment with (Employer)

   E. The IRO upheld the Carrier's adverse determination regarding the medical necessity of an SI injection under fluoroguide for the Claimant's compensable _____ 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 1.

3. An SI injection under fluoroguide is 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 Claimant is not entitled to an SI injection under fluoroguide for the compensable injury of _____.

DECISION

Claimant is not entitled to an SI injection under fluoroguide 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 **OLD REPUBLIC INSURANCE COMPANY,** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
701 BRAZOS ST., SUITE 1050
AUSTIN, TX 78701

Signed this 9th day of November, 2009.

PATRICE FLEMING-SQUIREWELL
Hearing Officer