MEDICAL CONTESTED CASE HEARING NO. 10087
M6-10-21873-01

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 begun on November 16, 2009 and closed on December 17, 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 outpatient radiofrequency thermocoagulation right stellate ganglion block for the compensable injury of _____?

At the hearing on December 17, 2009 the parties agreed that the IRO relied on the reference to "Regional sympathetic blocks (stellate ganglion block, thoracic sympathetic block, & lumbar sympathetic block)" of the **Official Disability Guidelines** (ODG) in making its decision.

PARTIES PRESENT

On both hearing dates, Petitioner/Claimant appeared and was assisted by JT;
Respondent/Carrier appeared and was represented by TW, attorney and GW, adjuster.

BACKGROUND INFORMATION

Claimant testified that she injured her right elbow on _____.

Documentary evidence indicates that Dr. O performed four stellate ganglion blocks beginning on December 19, 2008 and ending on May 5, 2009. He requested another block which was denied by Carrier. A IRO upheld the adverse determination because there was not competent, objective or independently confirmable medical evidence that supported the request. The reviewer for the IRO cited the reviewer's medical judgment, clinical experience and expertise in accordance with accepted medical standards and the ODG in upholding the adverse determination.

Texas Labor Code Section 408.012 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 regional sympathetic blocks (stellate ganglion block, thoracic sympathetic block, and lumbar sympathetic block):

> Recommendations are generally limited to diagnosis and therapy for CRPS. See CRPS, sympathetic and epidural blocks for specific recommendations for treatment. Also see CRPS, diagnostic criteria; CRPS, medications; & CRPS.
> *Stellate ganglion block (SGB) (Cervicothoracic sympathetic block):* There is limited evidence to support this procedure, with most studies reported being case studies. The one prospective double-blind study (of CRPS) was limited to 4 subjects. *Anatomy:* Sympathetic flow to the head, neck and most of the upper extremities is derived from the upper five to seven thoracic spinal segments. The stellate ganglion is formed by a fusion of the inferior and first thoracic sympathetic ganglia in 80% of patients. In the other 20%, the first thoracic ganglion is labeled the stellate ganglion. The upper extremity may also be innervated by branches for Kuntz's nerves, which may explain inadequate relief of sympathetic related pain. *Proposed Indications:* This block is proposed for the diagnosis and treatment of sympathetic pain involving the face, head, neck, and upper extremities. Pain: CRPS; Herpes Zoster and post-herpetic neuralgia; Frostbite. Circulatory insufficiency: Traumatic/embolic occlusion; Post-reimplantation; Post-embolic vasospasm; Raynaud's disease; Vasculitis; Scleroderma. *Testing for an adequate block:* Adequacy of a sympathetic block should be recorded. A Horner's sign (ipsilateral ptosis, miosis, anhydrosis conjunctival engorgement, and warmth of the face) indicates a sympathetic block of the head and face. It does not indicate a sympathetic block of the upper extremity. The latter can be measured by surface

temperature difference (an increase in temperature on the side of the block). Somatic block of the arm should also be ruled out (the incidence of brachial plexus nerve block is ~ 10%). Complete sympathetic blockade can be measured with the addition of tests of abolition of sweating and of the sympathogalvanic response. Documentation of motor and/or sensory block should occur. *Complications:* Incidental recurrent laryngeal nerve block or superior laryngeal nerve block, resulting in hoarseness and subjective shortness of breathe; Brachial plexus block; Intravascular injection; Intrathecal, subdural or epidural injection; Puncture of the pleura with pneumothorax; Bleeding and hematoma. There appears to be a positive correlation between efficacy and how soon therapy is initiated (as studied in patients with CRPS of the hand). Duration of symptoms greater than 16 weeks before the initial SGB and/or a decrease in skin perfusion of 22% between the normal and affected hands adversely affected the efficacy of SGB therapy. (Ackerman, 2006) (Sayson, 2004) (Grabow, 2005) (Colorado, 2006) (Price, 1998) (Day, 2008) (Nader, 2005) See also Stellate ganglion block.

Thoracic Sympathetic Blocks: Not recommended due to a lack of literature to support effectiveness. Utilized for sympathetic blocks of the upper extremity in the 20% of individuals with innervation of the upper extremity by Kuntz's nerves (nerves from the 2nd and 3rd thoracic sympathetic ganglia bypass the stellate ganglion and directly join the brachial plexus). *Proposed Indications:* CRPS, peripheral neuropathy, brachial plexalgia, sympathetically maintained pain and vascular disorders. (Day, 2008) *Complications:* neuraxial injection; intravascular injection; nerve injury; pnuemothorax.

Lumbar Sympathetic Blocks: There is limited evidence to support this procedure, with most studies reported being case studies. *Anatomy:* Consists of several ganglia between the L1 and L5 vertebra. *Proposed Indications:* Circulatory insufficiency of the leg: (Arteriolsclerotic disease; Claudication: Rest pain; Ischemic ulcers; Diabetic gangrene; Pain following arterial embolus). Pain: Herpes Zoster; Post-herpetic neuralgia; Frostbite; CRPS; Phantom pain. These blocks can be used diagnostically and therapeutically. *Adjunct therapy:* sympathetic therapy should be accompanied by aggressive physical therapy to optimize success. *Complications:* Back pain; Hematuria; Somatic block; Segmental nerve injury; Hypotension (secondary to vasodilation); Bleeding; Paralysis: Renal puncture/trauma. Genitofemoral neuralgia can occur with symptoms of burning dysesthesia in the anteromedial upper thigh. It is advised to not block at L4 to avoid this complication. *Adequacy of the block:* This should be determined, generally by measure of skin temperature (with an increase noted on the side of the block). Complete sympathetic blockade can be measured with the addition of tests of abolition of sweating and of the sympathogalvanic response. (Day, 2008) (Sayson, 2004) (Nader, 2005)

According to the ODG, recommendations for the requested procedure are generally limited to the diagnosis and therapy for chronic regional pain syndrome. The ODG notes that there is limited evidence to support the requested procedure.

Claimant's documentary evidence included letters from Dr. O and Dr. P. Dr. O wrote that he requested another block because previous blocks confirmed the diagnosis of sympathetic maintained pain and helped in significantly reducing overall pain but that the pain had returned after several months. Dr. P wrote that Claimant needed an injection to determine if she had chronic regional sympathetic pain. Neither doctor referenced the ODG or other evidence based medicine.

Claimant's ombudsman referred to the ODG's cite for injection but did not present evidence based medicine to show that Claimant was entitled to the requested procedure.

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, who was the employee of the (Employer), sustained a 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 2.

3. Claimant's evidence did not show that the requested procedure was to diagnose and provide therapy for chronic regional pain syndrome.

4. Claimant did not present an evidence-based medical opinion contrary to the decision of the IRO.

5. Outpatient radiofrequency thermocoagulation right stellate ganglion block 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 outpatient radiofrequency thermocoagulation right stellate ganglion block for the compensable injury of _____.

DECISION

Claimant is not entitled to outpatient radiofrequency thermocoagulation right stellate ganglion block 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

TM
(ADDRESS)
(CITY), TEXAS (ZIP CODE)

Signed this 18th day of December, 2009.

CAROLYN F. MOORE
Hearing Officer