MEDICAL CONTESTED CASE HEARING NO. 10112
M6-10-22104-01

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.

ISSUES

A contested case hearing was scheduled for November 17, 2009 and December 15, 2009 but reset to and held on February 9, 2010 to decide the following disputed issue:

> Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that the Claimant is not entitled to an outpatient decompression of the A1 pulley of the left thumb for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was represented by CS, attorney.
Respondent/Carrier appeared and was represented by RR, attorney.

BACKGROUND INFORMATION

Claimant sustained a compensable injury on _____. Claimant was initially prescribed bilateral wrist splints and pain medication. An EMG/NCV was performed on _____ revealing findings of bilateral carpal tunnel syndrome (CTS). Claimant underwent left wrist carpal tunnel release surgery on December 8, 2008 and post-surgery physical therapy. On April 30, 2009, Claimant's treating doctor recommended an A1 steroid injection. Claimant testified that she had had two injections to her left thumb which provided only temporary relief. Claimant has been recommended to undergo an outpatient decompression of the A1 pulley of the left thumb which was denied by the Carrier and referred to an IRO who determined that the recommended treatment was not medically necessary.

The IRO reviewer, an orthopedic surgeon trained in hand surgery, upheld the previous adverse determination stating that the recommended procedure would not be reasonable or necessary. The IRO reviewer noted that the Claimant was originally treated for CTS and there was no early mention of any trigger thumb in the medical records until nearly a year after the original injury. The IRO reviewer went on to state that there is no evidence to support that post-operative CTS patients have a higher incidence of trigger thumb.

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 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*. 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* makes the following recommendations for trigger finger release:

> Recommended where symptoms persist. Trigger finger is a condition in which the finger becomes locked in a bent position because of an inflamed and swollen tendon. In cases where symptoms persist after steroid injection, surgery may be recommended. However, the risk of troublesome complications, even after this minor operation, should be born in mind. (Finsen, 2003) One hundred and eighty patients with 240 trigger digits were treated by percutaneous release using a 'lift-cut' technique. All patients were reviewed at 3 months following release. Overall, 94% achieved an excellent or good result. Ten patients experienced recurrent symptoms and required a subsequent open release. There was no clinical evidence of digital nerve or flexor tendon injury. (Ragoowansi , 2005) According to one study, percutaneous release with steroid injection of trigger thumbs is a cheap, safe and effective procedure with a low rate of complications. (Cebesoy, 2006) Percutaneous release with steroid injection produced satisfactory long-term results in 91% of cases whereas steroid injection alone produced satisfactory results in 47% of cases. Percutaneous trigger thumb release combined with steroid injection has a higher success rate than that of steroid injection alone. (Maneerit, 2003) Surgical release of the A1 pulley for treatment of trigger finger normally produces excellent results. However, in patients with long-standing disease, there may be a persistent fixed flexion deformity of the proximal interphalangeal joint due to a degenerative thickening of the flexor tendons. Treatment by resection of the ulnar slip of flexor digitorum superficialis tendon is indicated for patients with loss passive extension in the proximal interphalangeal joint and a long history of triggering. (Le Viet, 2004) (Fu, 2006) One study concluded that surgical outcome for trigger finger was poorer than that for trigger thumb, partly due to flexion contracture of the PIP joint. (Moriya, 2005) See also Injection.

The Claimant testified that she has exhausted all the recommended conservative treatment including splints, rest/non-use of her thumb, pain medications and steroid injections. The Claimant testified that she returned to Dr. C in February 2010 and that he was still recommending the proposed surgery. The parties raised an extent of injury issue with regard to the left thumb. The issue was adjudicated prior to this hearing and it was determined that the compensable injury did include an injury to the left thumb. While it appears that the Claimant may now meet the recommendations in the *ODG* for the surgery, the Claimant failed to present an evidence-based medical opinion explaining how she meets the *ODG* criteria for a trigger thumb release. Therefore, Claimant has not met the requisite evidentiary standard required to overcome the IRO decision and the preponderance of the evidence is not contrary to the IRO decision that the Claimant is not entitled to an outpatient decompression of the A1 pulley of the left thumb for the compensable injury of _____ at this time.

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. Claimant sustained a compensable injury on _____.

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 IRO determined that the Claimant should not have the requested procedure.

4. The requested outpatient decompression of the A1 pulley of the left thumb is not health care reasonably required for the compensable injury of _____

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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 an outpatient decompression of the A1 pulley of the left thumb is not health care reasonably required for the compensable injury of _____.

DECISION

Claimant is not entitled to an outpatient decompression of the A1 pulley of the left thumb 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

For service in person, the address is:

JB, EXECUTIVE DIRECTOR
(SELF-INSURED)
(STREET ADDRESS)
(BUILDING/FLOOR)
(CITY), TEXAS (ZIP CODE)

For service by mail, the address is:

JB, EXECUTIVE DIRECTOR
(SELF-INSURED)
(P.O. BOX)
(CITY), TEXAS (ZIP CODE)

Signed this 10th of February, 2010.

Carol A. Fougerat
Hearing Officer