MEDICAL CONTESTED CASE HEARING NO. 10192
M6-10-25867-01

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 held on June 22, 2010, to decide the following disputed issue:

> Is the preponderance of the evidence contrary to the decision of the IRO that the claimant is not entitled to a one-time caudal epidural steroid injection (ESI) for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by EJ, ombudsman.
Respondent/Carrier appeared and was represented by SS, attorney.

BACKGROUND INFORMATION

On _____, Claimant injured her low back lifting boxes of shoes at work. In December 2007, Claimant underwent disc replacement surgery. Since then she has undergone facet injections and nerve blocks, providing 60-70% relief from pain. Her Treating Doctor, a pain management specialist, is now recommending a caudal ESI to inject the steroids into the coccyx area so the medication can work its way up the spinal cord. He opines this will provide her the best, albeit short-term, relief. The Carrier denied the request. Its URA doctors determined the caudal ESI was not treatment recommended under the Official Disability Guidelines. The IRO doctor, board certified in pain management and anesthesiology, found medical necessity did not exist for the one-time caudal ESI.

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, out come-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. 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. (Division Rule 133.308 (t)).

Under the Official Disability Guidelines in reference to a caudal ESI, one time, the following recommendation is made:

> **Criteria for the use of Epidural steroid injections:**
> *Note: The purpose of ESI is to reduce pain and inflammation, thereby facilitating progress in more active treatment programs, and avoiding surgery, but this treatment alone offers no significant long-term functional benefit.*
> (1) Radiculopathy must be documented. Objective findings on examination need to be present. For unequivocal evidence of radiculopathy, see AMA Guides, 5th Edition, page 382-383. (Andersson, 2000)
> (2) Initially unresponsive to conservative treatment (exercises, physical methods, NSAIDs and muscle relaxants).
> (3) Injections should be performed using fluoroscopy (live x-ray) and injection of contrast for guidance.
> (4) *Diagnostic Phase:* At the time of initial use of an ESI (formally referred to as the "diagnostic phase" as initial injections indicate whether success will be obtained with this treatment intervention), a maximum of one to two injections should be performed. A repeat block is not recommended if there is inadequate response to the first block (< 30% is a standard placebo response). A second block is also not indicated if the first block is accurately placed unless: (a) there is a question of the pain generator; (b) there was possibility of inaccurate placement; or (c) there is evidence of multilevel pathology. In these cases a different level or approach might be proposed. There should be an interval of at least one to two weeks between injections.
> (5) No more than two nerve root levels should be injected using transforaminal blocks.
> (6) No more than one interlaminar level should be injected at one session.
> (7) *Therapeutic phase:* If after the initial block/blocks are given (see "Diagnostic Phase" above) and found to produce pain relief of at least 50-70% pain relief for at least 6-8 weeks, additional blocks may be required. This is generally referred to as the "therapeutic phase." Indications for repeat blocks include acute exacerbation of pain, or new onset of symptoms. The general consensus recommendation is for no more than 4 blocks per region per year. (CMS, 2004) (Boswell, 2007)
> (8) Repeat injections should be based on continued objective documented pain relief, decreased need for pain medications, and functional response.

(9) Current research does not support a routine use of a "series-of-three" injections in either the diagnostic or therapeutic phase. We recommend no more than 2 ESI injections for the initial phase and rarely more than 2 for therapeutic treatment.
(10) It is currently not recommended to perform epidural blocks on the same day of treatment as facet blocks or sacroiliac blocks or lumbar sympathetic blocks or trigger point injections as this may lead to improper diagnosis or unnecessary treatment.
(11) Cervical and lumbar epidural steroid injection should not be performed on the same day. (Doing both injections on the same day could result in an excessive dose of steroids, which can be dangerous, and not worth the risk for a treatment that has no long-term benefit.)

At the contested case hearing, Claimant testified she has radicular complaints, mostly into her left leg. She testified prior injections provided her with enough pain relief, 60-70% relief that would allow her to be able to handle the remaining pain. Claimant provided a few pages of a chapter entitled "Chapter 48: Caudal Epidural Nerve Block" from an unnamed book and the abstract from a study published in *Pain Physician* magazine discussing interventional techniques that indicate evidence supports the use of caudal epidural steroid injections as strong for short-term relief and moderate for long-term relief in managing chronic low back and radicular pain.

While Claimant provided literature on caudal ESIs, these papers do not address the Official Disability Guidelines or the IRO's decision. Claimant's Treating Doctor did not address the IRO's decision and did not provide an opinion based upon evidence-based medicine to support the proposed treatment, other than to say a caudal ESI for coccygeal pain is an established and accepted treatment modality for Claimant's pain. Claimant failed to present evidence based medicine to overcome the decision of the IRO.

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 IRO doctor determined a one-time caudal ESI was not healthcare reasonably necessary.

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. A caudal ESI, one time 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 a caudal ESI, one time is not health care reasonably required for the compensable injury of _____.

DECISION

Claimant is not entitled to a caudal ESI, one time 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 **PENNSYLVANIA MANUFACTURERS ASSOC. INSURANCE COMPANY** and the name and address of its registered agent for service of process is:

CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TX 78701-3232.

Signed this 23rd day of June, 2010.

KEN WROBEL
Hearing Officer