

**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 June 22, 2010, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that the claimant is not entitled to a Revised Hip Joint Replacement, CPT R – Asst Dir MS PX for the compensable injury of \_\_\_\_\_?

**PARTIES PRESENT**

The petitioner/claimant appeared and was represented by AW, attorney. The respondent/carrier appeared and was represented by MD, attorney.

**BACKGROUND INFORMATION**

It was stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. As a result of that injury, claimant received a left total hip arthroplasty on March 24, 2009. Although claimant initially had improvement in her gait and function, claimant began experiencing increased pain. There was a one centimeter difference in leg length which was corrected by a shoe lift. (Only a five millimeter difference in leg length was found radiographically.) Claimant's doctor noted an abduction contracture, which claimant was working to relieve in physical therapy.

Over time, claimant's hip pain has led her doctor, Dr. M, M.D., to recommend an iliotibial band release. Claimant refused the iliotibial band release and was referred to Dr. H, M.D. for a second opinion regarding the possibility of a revision of the left hip arthroplasty. Claimant's primary concern was the leg length discrepancy. A CT scanogram requested by Dr. H showed a seven millimeter leg length discrepancy.

A request to preauthorize revision total hip arthroplasty was considered and denied. Dr. H wrote a letter in his request for reconsideration, indicating that he believed the claimant to be "an appropriate candidate for joint revision surgery for her left hip to not only decrease her pain but also to improve her way of life." Medical records do not document a failed hip arthroplasty. The reconsideration request for surgery was also denied.

A review by an Independent Review Organization (IRO) upheld the carrier's denial of the revision total hip arthroplasty. The IRO reviewer, a board certified orthopaedic surgeon, indicated that the claimant's pain has not been adequately investigated. The reviewer notes that a revision surgery would likely result in persistent pain. Further, the reviewer did not feel that the abduction contracture has been investigated or adequately treated. The reviewer also cited the

fact that the current hip arthroplasty has not been proven as a failed procedure. Less aggressive treatment was recommended.

## **DISCUSSION**

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.

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 133.208 (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."

On the date of this medical contested case hearing, the ODG provides the following with regard to a Revised Hip Joint Replacement, (CPT R – Asst Dir MS PX):

Recommended for failed hip replacement or internal fixation. Revision total hip arthroplasty is a reasonably safe and effective procedure for failed hip replacement. (Saleh, 2003) Patients who take statins after primary total hip arthroplasty (THA) may greatly reduce the risk for revision surgery. The most common reasons for revision after THA are aseptic loosening of prosthetic parts, infection, dislocation, and fracture.

Based on the evidence presented, the claimant failed to meet her burden of overcoming the decision of the IRO by a preponderance of the evidence-based medical evidence and, therefore, the claimant is not entitled to the revised hip joint replacement (CPT R –Asst Dir MS PX).

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 Workers' Compensation Division of the Texas Department of Insurance.
  - B. On \_\_\_\_\_, the claimant was the employee of (Self-Insured), Employer.
  - C. On \_\_\_\_\_, the claimant sustained a compensable injury.
2. The carrier delivered to the claimant a single document stating the true corporate name of the carrier, and the name and street address of the carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. (Independent Review Organization) was appointed to act as Independent Review Organization by the Texas Department of Insurance.
4. The IRO determined that the claimant was not entitled to a revised hip joint replacement; CPTR Asst Dir MS PX.
5. A revised hip joint replacement; CPTR Asst Dir MS PX is not health care reasonably required for the compensable injury of \_\_\_\_\_.

## **CONCLUSIONS OF LAW**

1. The Workers' Compensation Division of the Texas Department of Insurance has jurisdiction to hear this case.
2. Venue is proper in the (City) Field Office.
3. The claimant is not entitled to a revised hip joint replacement; CPT R – Asst Dir MS PX.

## **DECISION**

The claimant is not entitled to a revised hip joint replacement; CPT R – Asst Dir MS PX.

## **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:

**LM  
(STREET ADDRESS)  
(CITY), TEXAS (ZIP CODE)**

Signed this 30th day of June, 2010.

Carolyn Cheu  
Hearing Officer