

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 December 13, 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 four trigger point injections to the lumbar spine for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by MC, ombudsman.
Respondent/Carrier appeared and was represented by RJ, attorney.

BACKGROUND INFORMATION

Claimant sustained a compensable lumbar spine injury on _____. He has undergone conservative treatment in the form of medications and home exercise. On March 25, 2009, Claimant underwent trigger point injections which provided 90% improvement of his low back pain. Claimant testified that he was essentially pain free for three to four months after the injections; however, Dr. C's records indicate the Claimant had three to four weeks of relief. The Claimant testified that he continues to exercise at home but the physical therapy program initially recommended was denied by the Carrier. According to Dr. C's records, the Claimant experienced a flare-up of symptoms in July 2010. On July 20, 2010, Dr. C recommended physical therapy and four diagnostic and therapeutic trigger point injections with Marcaine and Kenalog to further relieve the Claimant's pain. Claimant testified that the request for physical therapy was again denied. The Carrier also has not authorized the four trigger point injections to the lumbar spine. The Claimant sought review by an IRO. The IRO decision issued on September 3, 2010 upheld the Carrier's denial citing the Official Disability Guidelines (ODG) and providing a detailed analysis of the explanation for the denial.

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 making decisions about the treatment of individual patients.

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.

The ODG criteria for the use of trigger point injections:

Trigger point injections with a local anesthetic with or without steroid may be recommended for the treatment of chronic low back or neck pain with myofascial pain syndrome when all of the following criteria are met: (1) Documentation of circumscribed trigger points with evidence upon palpation of a twitch response as well as referred pain; (2) Symptoms have persisted for more than three months; (3) Medical management therapies such as ongoing stretching exercises, physical therapy, NSAIDs and muscle relaxants have failed to control pain; (4) Radiculopathy is not present (by exam, imaging, or neuro-testing); (5) Not more than 3-4 injections per session; (6) No repeat injections unless a greater than 50% pain relief with reduced medication use is obtained for six weeks after an injection and there is documented evidence of functional improvement; (7) Frequency should not be at an interval less than two months; (8) Trigger point injections with any substance (e.g., saline or glucose) other than local anesthetic with or without steroid are not recommended; (9) There should be evidence of continued ongoing conservative treatment including home exercise and stretching. Use as a sole treatment is not recommended; (10) If pain persists after 2 to 3 injections the treatment plan should be reexamined as this may indicate an incorrect diagnosis, a lack of success with this procedure, or a lack of incorporation of other more conservative treatment modalities for myofascial pain. It should be remembered that trigger point injections are considered an adjunct, not a primary treatment.

As noted above, the ODG sets out criteria for trigger point injections. Although Dr. C provided a narrative report indicating that the Claimant does meet the ODG criteria for the recommended injections, his response explaining how the Claimant meets each criteria of the ODG is contradictory to his clinical and physical findings stated in the medical records in evidence. Specifically, in response to the recommendation that radiculopathy is not present, Dr. C states that the Claimant's pain is currently localized to the lumbar and "glueal" region yet all his medical records reflect a diagnosis of radiculopathy and radicular symptoms. Dr. C also notes that the Claimant did not require any further injections until nine months after the initial injections in June 2008; however, his records indicate the Claimant had only about four weeks of relief after the first set of injections. Based on the medical evidence presented, the Claimant does not meet the criteria set out in the ODG for trigger point joint injections and the Claimant failed to provide an evidence-based medicine medical opinion contrary to the determination of the IRO. The preponderance of the evidence is not contrary to the IRO decision that Claimant is not entitled to four trigger point injections to the lumbar spine for treatment of the compensable injury of _____.

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 to his lumbar spine 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. Claimant does not meet the requirements of the ODG for four trigger point injections to the lumbar spine and he failed to present other evidence-based medicine supporting the necessity for this procedure.
4. Four trigger point injections to the lumbar spine are 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 four trigger point injections to the lumbar spine are not health care reasonably required for the compensable injury of _____.

DECISION

Claimant is not entitled to four trigger point injections to the lumbar spine 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 **LIBERTY MUTUAL FIRE 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**

Signed this 13th day of December, 2010.

Carol A. Fougerat
Hearing Officer