

MEDICAL CONTESTED CASE HEARING NO. 13121

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 spinal contested case hearing was held on July 22, 2013, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the IRO that Claimant is not entitled to a 2-3 day inpatient surgical procedure of a 360 Fusion at L4-5, L5-S1 with ICBG and decompression at L2-3, L3-4, L4-5, and L5-S1 is not health care reasonably required for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner and Claimant failed to appear at the hearing and neither responded to the Division's 10 day letter. Carrier appeared and was represented by PP, attorney.

EVIDENCE PRESENTED

The following witnesses testified:

For the Petitioner: None.

For the Claimant: None.

For the Carrier: None.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits HO-1 through HO-3.

BACKGROUND INFORMATION

Claimant sustained a compensable injury, which includes his low back, on (Date of Injury). Claimant's surgeon, Dr. J, requested to perform a 360 Fusion at L4-5, L5-S1 with ICBG and decompression at L2-3, L3-4, L4-5, and L5-S1. The IRO reviewed the case and determined that such procedures were not warranted or indicated under the Official Disability Guidelines.

Claimant and Petitioner disagreed and brought this request for a spinal surgery contested case hearing.

Claimant failed to produce any evidence that was contrary to the IRO; therefore, he did not meet his burden of proof to overcome the IRO opinion.

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. Carrier admitted 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 (Date of Injury), Claimant was the employee of (Employer), Employer.
 - C. On (Date of Injury), Employer provided workers' compensation insurance through Carrier Public WC Program.
 - D. Claimant sustained a compensable spinal injury on (Date of Injury).
 - E. The Independent Review Organization determined that Claimant should not have spinal surgery.
2. The Division sent a single document stating the true corporate name of the Carrier and the name and street address of Carrier's registered agent for service with the 10-day letter to the Claimant at Claimant's address of record. That document was admitted into evidence as Hearing Officer Exhibit Number 1.
3. Claimant failed to produce any evidence that was contrary to the IRO opinion that a 360 Fusion at L4-5, L5-S1 with ICBG and decompression at L2-3, L3-4, L4-5, and L5-S1 is not health care reasonably required for the compensable injury of (Date of Injury).

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 360 Fusion at L4-5, L5-S1 with ICBG and decompression at L2-3, L3-4, L4-5, and L5-S1 is not health care reasonably required for the compensable injury of (Date of Injury).

DECISION

The preponderance of the evidence is not contrary to the decision of the IRO a 360 Fusion at L4-5, L5-S1 with ICBG and decompression at L2-3, L3-4, L4-5, and L5-S1 is not health care reasonably required for the compensable injury of (Date of Injury).

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 **PUBLIC WC PROGRAM** and the name and address of its registered agent for service of process is:

**JERRY EDWARDS
EDWARDS RISK MANAGEMENT, INC.
1004 MARBLE HEIGHTS DR.
MARBLE FALLS, TX 78654**

Signed this 23rd day of August, 2013.

Phillip Brown
Hearing Officer