

MEDICAL CONTESTED CASE HEARING NO. 14034

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 November 13, 2013 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the IRO that Claimant is entitled to left PIN decompression and proximal forearm and left decompression radial nerve for the compensable injury of (Date of Injury)?

Pre-hearings were held on January 22, 2013 and on March 8, 2013.

PARTIES PRESENT

Petitioner/Carrier appeared and was represented by SG, attorney. Claimant failed to appear for the contested case hearing and did not respond to the Division's 10 day letter. Respondent failed to appear for the contested case hearing and had his staff respond to the 10 day letter stating he had been traveling on the date of the hearing.

EVIDENCE PRESENTED

MA, M.D., was the only witness who testified.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits 1, 2, and 3; and

Carriers Exhibits CR-A, CR-C, CR-G, CR-I, CR-K, CR-L, CR-M, CR-N, CR-O, AND CR-P.

BACKGROUND INFORMATION

Although properly notified, Claimant and Respondent failed to appear for the medical contested case hearing scheduled for 2:00 P.M. on November 13, 2013. A letter advising that the hearing had convened and that the record would be held open for ten days to afford Claimant the opportunity to respond and request that the hearing be rescheduled to permit her to present evidence on the disputed issue was mailed to Claimant on November 14, 2013. Claimant failed to respond to the Division's 10 day letter. A letter advising that the hearing had convened and that the record would be held open for ten days to afford Respondent the opportunity to respond and request that the hearing be rescheduled to permit him to present evidence on the disputed issue was mailed to Respondent on November 14, 2013. Respondent's staff responded but did

not request a hearing. Respondent's staff stated that Respondent had been traveling on the date of the hearing. On December 3, 2013, the record was closed.

Carrier presented evidence through testimony of Dr. A and documentary evidence from Drs. P and G. The evidence showed that Claimant's injury to the elbow would not have caused problems to her wrist. Claimant was injured when a small chair struck her elbow. In addition, evidence showed that symptoms to Claimant's wrist did not appear until well after the date of injury.

Dr. A testified that the requested procedures were not medically necessary or reasonable for Claimant's compensable injury. His testimony was persuasive.

In another contested hearing which was held in conjunction with this medical contested case hearing, Claimant failed to prove that her injury of (Date of Injury) included left PIN entrapment and left carpal tunnel syndrome. The requested surgery in this case would address a diagnosis not included in Claimant's compensable injury.

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. Petitioner/Carrier 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 (Date of Injury), Claimant, who was the employee of (Employer), sustained a compensable injury.
 - C. On (Date of Injury), Employer provided workers' compensation insurance with Zenith Insurance Company.
2. The Division sent a single document stating the true corporate name of Carrier and the name and street address of Carrier's registered agent for service with the 10-day letter to Claimant at Claimant's address of record and to Respondent at Respondent's address of record. That document was admitted into evidence as Hearing Officer Exhibit Number 2.
3. Claimant failed to appear for the November 13, 2013 contested case hearing and did not respond to the Division's letter offering her the opportunity to have the hearing rescheduled.
4. Respondent, through his staff, responded to the 10-day letter but did not request an opportunity to have the hearing rescheduled.

5. The requested services are not reasonable and necessary health care services 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 contrary to the decision of the IRO that Claimant is entitled to left pin decompression and proximal forearm and left decompression radial nerve for the compensable injury of (Date of Injury).

DECISION

Claimant is not entitled to left pin decompression and proximal forearm and left decompression radial nerve 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 **ZENITH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH SAINT PAUL STREET SUITE 2900
DALLAS, TX 75201-4234**

Signed this 3rd day of December, 2013.

CAROLYN F. MOORE
Hearing Officer