

DECISION AND ORDER

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and the Rules of the Texas Department of Insurance, Division of Workers' Compensation. For the reasons discussed herein, the Hearing Officer determines that the preponderance of the evidence is contrary to the decision of the Independent Review Organization (IRO) that Claimant is not entitled to left wrist deQuervain's release with CMC interposition arthroplasty for the compensable injury of (Date of Injury).

STATEMENT OF THE CASE

A contested case hearing was held on January 13, 2015 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that Claimant is not entitled to left wrist deQuervain's release with CMC interposition arthroplasty for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner/Claimant appeared and was represented by JS, attorney.
Respondent/Carrier was represented by JF, attorney.
The employer representative was KJ.

EVIDENCE PRESENTED

The following witnesses testified:

For Claimant: Claimant.

For Carrier: None.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits: HO-1 and HO-2.

Claimant's Exhibits: C-1 through C-11.

Carrier's Exhibits: CR-A through CR-G.

DISCUSSION

On (Date of Injury), Claimant sustained a compensable injury when a projector screen partially fell and struck the Claimant on the base of her left thumb. Claimant continues to receive medical treatment for the compensable injury and her treating physician has requested a left wrist deQuervain's release with CMC interposition arthroplasty. The requested procedure was denied by the Carrier and referred to an IRO, who upheld the Carrier's denial.

The IRO reviewer, a physician Board Certified Orthopedic Surgeon, noted the multiple medical records he reviewed, including the diagnostic tests performed on the left wrist. The reviewer noted that the "DeQuervain release is indicated for patients who have failed all conservative treatment including injections...Without confirmation of the injection history addressing deQuervain's, the request for release is not fully indicated for this patient at this time. Additionally, the request also involves an arthroplasty of the CMC joint. No information was submitted regarding confirmation of state three or state four osteoarthritis at the CMC joint indicating the likely benefit of arthroplasty."

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, outcome-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. Also, in accordance with Division Rule 133.308(s), "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."

With regard to the de Quervain's release, the ODG notes the following:

Recommended as an option if consistent symptoms, signs, and failed three months of conservative care with splinting and injection. de Quervain's disease causes inflammation of the tendons that control the thumb causing pain with thumb motion, swelling over the wrist, and a popping sensation. Surgical treatment of de Quervain's tenosynovitis or hand and wrist tendinitis/tenosynovitis without a trial of conservative therapy, including a work evaluation, is generally not indicated. The majority of patients with de Quervain's syndrome will have resolution of symptoms with conservative treatment. Under unusual circumstances of persistent pain at the wrist and limitation of function, surgery may be an option for treating de Quervain's tendinitis. (AHRQ, 2003) (California, 1997) (Zarin, 2003) (Ta, 1999) Injection alone is the best therapeutic approach to de Quervain's tenosynovitis. (Richie, 2003) (Lane, 2001) Traditionally, epicondylitis and de Quervain's tenosynovitis have been viewed as being due to an inflammatory process and treated as such. New research shows that tendons in these conditions exhibit areas of degeneration and a distinct lack of inflammatory cells and should be considered "tendinopathies", and this may direct future treatment. (Ashe, 2004)

The ODG also addresses the arthroplasty, which has also been recommended by Claimant's treating physician as part of the recommended treatment, and notes the following as to this procedure:

Recommended as indicated below. Prosthetic joint replacement is used to reduce pain and maintain function of the proximal interphalangeal joint. (Pettersson, 2006) In our series, total joint arthroplasty of the thumb CMC joint has proven to be efficacious with improved motion, strength, and pain relief for the treatment of stage III and early stage IV osteoarthritis of the CMC joint in older patients with low activity demands. (Badia, 2006) Arthroplasty is also an option for interphalangeal joint fractures and dislocations. (Calfee, 2009)

Indications for joint replacement of the finger or thumb:

- Symptomatic arthritis of the proximal interphalangeal joint with preservation of the collateral ligaments
- Sufficient bone support
- Intact or at least reconstructable extensor tendons
- Contraindications:

- Lack of stability, e. g., as a result of rheumatoid arthritis or destruction of the ligaments caused by an accident
- Nonreconstructable extensor tendons
- Florid or chronic infection
- Lack of patient compliance. (Meier, 2007)

The Claimant's treating physician has explained and addressed the IRO's concern regarding the recommended treatment and explained why the proposed surgery meets the guidelines addressed in the ODG. The treating physician noted in a medical report dated July 11, 2013, which was reviewed by the IRO, that the CMC joint was again injected "as we are trying to exhaust every possible conservative measure even though she is nine months post-injury." Similarly, a report dated January 29, 2013, documented that Claimant "was given an injection to the first dorsal compartment for De Quervain's tendonitis and she states that did not really help." It appears that the IRO did not approve of the procedure because he did not have the injection history. However, the evidence was sufficient to establish that Claimant did have the injections to her CMC joint, as well as the dorsal aspect of her wrist, which did not provide any relief to the Claimant. The evidence established that Claimant exhausted conservative treatment as required by the ODG and that the recommended treatment is health care reasonably required for the compensable injury of (Date of Injury).

The explanations provided by the treating physician are sufficient and supported by evidence-based medicine. Therefore, the preponderance of the evidence is contrary to the decision of the Independent Review Organization (IRO) that Claimant is not entitled to an anterior cervical discectomy at C3 with artificial disc replacement of C3 with a ProDisc-C.

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 (Date of Injury), Claimant was the employee of the (Employer), Employer.
 - C. On (Date of Injury), Employer provided workers' compensation insurance as a Self-Insurer.
 - D. On (Date of Injury), Claimant sustained a compensable injury.

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. The IRO determined that the requested service was not reasonable and necessary health care for the compensable injury of (Date of Injury).
4. Claimant presented evidence-based medical evidence contrary to the IRO decision.
5. The left wrist deQuervain's release with CMC interposition arthroplasty is 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 contrary to the decision of the IRO that a left wrist deQuervain's release with CMC interposition arthroplasty is not health care reasonably required for the compensable injury of (Date of Injury).

DECISION

Claimant is entitled to a left wrist deQuervain's release with CMC interposition arthroplasty for the compensable injury of (Date of Injury).

ORDER

Carrier is 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

(SELF-INSURED)
(ADDRESS)
(CITY), TEXAS (ZIPCODE)

Signed this 21st day of January, 2015.

Teresa G. Hartley
Hearing Officer