

MEDICAL CONTESTED CASE HEARING NO. 15029

**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. For the reasons discussed herein, the Hearing Officer determines that Claimant is entitled to a right subtalar steroid injection of the ankle for the compensable injury of (Date of Injury).

**STATEMENT OF THE CASE**

On March 03, 2015, a medical contested case hearing was held to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the IRO that Claimant is not entitled to a right subtalar steroid injection of the ankle for the compensable injury of (Date of Injury)?

**PARTIES PRESENT**

Petitioner/Claimant appeared and was assisted by SB, ombudsman.

Respondent/Carrier appeared and was represented by JM, attorney.

**DISCUSSION**

It is undisputed that on (Date of Injury), Claimant injured his right ankle when a large piece of luggage fell from the top of a baggage cart onto the back of his ankle. Claimant has undergone a tremendous number of medical procedures over the years including several surgeries and steroid injections. Claimant testified his doctor is requesting the steroid injections because they are trying to put off having to undergo a third surgery to try and correct his split heel bone. Claimant testified he gets considerable pain relief from the injections, allowing him to exercise and have a pain free life. Carrier disputed the recent request for the steroid injection and both URA doctors denied the treatment. Claimant requested an IRO doctor review the request and that doctor upheld the denial. Claimant is requesting he be allowed to receive the requested injection.

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."

On the date of this medical contested case hearing, the Official Disability Guidelines provides the following with regard to a right subtalar steroid injection of the ankle:

Under study. There is little information available from trials to support the use of peritendonous steroid injection in the treatment of acute or chronic Achilles tendinitis. (McLauchlan, 2002) Most evidence for the efficacy of intra-articular corticosteroids is confined to the knee, with few studies considering the joints of the foot and ankle. No independent clinical factors were identified that could predict a better postinjection response. (Ward, 2008) See also Injections.

The Official Disability Guidelines under corticosteroid injections provides the following:

Not recommended for tendonitis or Morton's Neuroma, and not recommend intra-articular corticosteroids. Under study for heel pain. See specific indications below.

*Heel pain (plantar fasciitis):* Under study. There is no evidence for the effectiveness of injected corticosteroid therapy for reducing plantar heel pain. (Crawford, 2000) Steroid injections are a popular method of treating the condition

but only seem to be useful in the short term and only to a small degree. (Crawford, 2003) Corticosteroid injection is more efficacious and multiple times more cost-effective than ESWT in the treatment of plantar fasciopathy. (Porter, 2005) This RCT concluded that a single ultrasound guided dexamethasone injection provides greater pain relief than placebo at four weeks and reduces abnormal swelling of the plantar fascia for up to three months, but significant pain relief did not continue beyond four weeks. (McMillan, 2012)

*Tendon (Achilles tendonitis):* Not recommended. Cortisone injections in the area of the Achilles tendon are controversial because cortisone injected around the tendon is harmful and can lead to Achilles tendon ruptures. Local glucocorticoid injections have generated controversy for Achilles tendinopathy. This systematic review found little evidence to support their efficacy, and, furthermore, local glucocorticoid injections were associated with rupture of the Achilles tendon. Therefore further research is required before glucocorticoid injections can be recommended for use in Achilles tendinopathy. (Metcalf, 2009) The literature surrounding injectable treatments for Achilles tendinosis has inconclusive evidence concerning indications for treatment and the mechanism of their effects. Prospective studies are necessary to guide Achilles tendinosis treatment recommendations using injectable therapies. (Gross, 2013) There is little information available from trials to support the use of peritendinous steroid injection in the treatment of acute or chronic Achilles tendinitis. (McLauchlan, 2000) Achilles tendon corticosteroid injections have been implicated in Achilles tendon ruptures. (Coombes, 2010)

*Morton's Neuroma:* Not recommend corticosteroid injections. There are no RCTs to support corticosteroid injections in the treatment of Morton's Neuroma. (Thomson, 2004) Alcohol injection of Morton's neuroma has a high success rate and is well tolerated. The results are at least comparable to surgery, but alcohol injection is associated with less morbidity and surgical management may be reserved for nonresponders. (Hughes, 2007)

*Intra-articular corticosteroids:* Not recommended. Most evidence for the efficacy of intra-articular corticosteroids is confined to the knee, with few studies considering the joints of the foot and ankle. No independent clinical factors were identified that could predict a better postinjection response. (Ward, 2008) Evidence is limited. (Colorado, 2001)

Under the Official Disability Guidelines, corticosteroid injections are either under review or not recommended, depending upon the specific category. However, as detailed by BB, M.D., Claimant's surgeon, Claimant does not fall under any of these categories and falls outside the

Official Disability Guidelines. At this time, Dr. B is recommending steroid injections as treatment for a failed subtalar arthrodesis. Dr. B wrote the following:

In my opinion, the generally accepted standard of medical practice is to first do no harm. Because of his job related injuries, he (Claimant) has had an attempt at subtaylor [sic] arthrodesis to treat his problem and failed. An additional surgery will have greater risk of failure then the initial surgery he underwent and the risk of complications would be greater also. I think the generally accepted standard in the medical community would be that the patient be able to choose between his treatment options and in this case intermittent continued injections for the subtaylor [sic] joint. To date we've shown the injections work for extended periods of time for Mr. S. I, therefore, feel that the injections are an acceptable alternative to surgery at this point. The decision for surgery should reside entirely with Mr. S. He currently does not feel that he wants to pursue the surgery and is comfortable with the periodic injections. I think that should be an acceptable option at this time.

Dr. S has explained how Claimant's compensable injury falls outside the Official Disability Guidelines, how the injections help Claimant for extended periods of time, and the alternative treatment would be a surgery Claimant is not comfortable undergoing and that has a risk of failing. Claimant testified he is not comfortable with the surgery and explained the details of the surgery. He explained Dr. B's concerns about the third surgery also failing, if it were to be performed, leaving a final option of amputating the leg. As Claimant's condition of a failed subtalar arthrodesis falls outside of the Official Disability Guidelines detailed above, Dr. B has adequately explained that the generally accepted standard in the medical community would include the requested subtalar steroid injections. Claimant met his burden of proof.

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 (Employer), Employer.
  - C. On (Date of Injury), Claimant sustained a compensable injury.
  - D. The Independent Review Organization board certified orthopedic surgeon determined Claimant should not have a right subtalar steroid injection of the ankle.

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. A right subtalar steroid injection of the ankle 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 right subtalar steroid injection of the ankle is not health care reasonably required for the compensable injury of (Date of Injury).

### **DECISION**

Claimant is entitled to a right subtalar steroid injection of the ankle 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 **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY**  
**d/b/a CSC-LAWYERS INCORPORATING SERVICE COMPANY**  
**211 EAST 7th STREET, SUITE 620**  
**AUSTIN, TEXAS 78701-3218.**

Signed this 04<sup>th</sup> day of March, 2015.

KEN WROBEL  
Hearing Officer