

MEDICAL CONTESTED CASE HEARING NO. 15043

**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:

Claimant is not entitled to a right total knee arthroplasty for the compensable injury of (Date of Injury).

**STATEMENT OF THE CASE**

Thomas Hight, a Division hearing officer, held a contested case hearing on May 14, 2015 to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the IRO that the Claimant is not entitled to a right total knee arthroplasty for the compensable injury of (Date of Injury)?

**PARTIES PRESENT**

Petitioner/Claimant appeared and was assisted by DJ, ombudsman. Respondent/Self-Insured appeared and was represented by CE, attorney.

**DISCUSSION**

Claimant sustained a compensable injury to his right knee on (Date of Injury). A request was made, apparently by Dr. RB, for pre-authorization of a right total knee arthroplasty. The IRO doctor upheld the previous denials, and Claimant appealed.

Carrier contended Claimant's appeal was not timely filed. It was not.

Rule 133.308(s)(1)(A) provides that the appeal from an IRO decision must be filed with the Division's Chief Clerk, or another Division location such as a local field office, no later than 20 days after the decision is sent to the appealing party. Here the decision was sent to Claimant on January 12, 2015, and Claimant's DWC-49 appeal was received by the Division on February 11, 2015.

Claimant's appeal from the IRO decision was not timely filed. The IRO decision is affirmed.

The Hearing Officer considered all of the evidence admitted. The Findings of Fact and Conclusions of Law are based on an assessment of all of the evidence whether or not the evidence is specifically discussed in this Decision and Order.

### **FINDINGS OF FACT**

1. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
2. On (Date of Injury) Claimant was the employee of (Employer), Employer.
3. On (Date of Injury) Employer provided workers' compensation insurance as a Self-Insurer.
4. On (Date of Injury) Claimant sustained a compensable injury.
5. The Independent Review Organization (IRO) determined Claimant should not have the requested treatment.
6. Self-Insured delivered to Claimant a single document stating the true corporate name of Self-Insured and the name and street address of Self-Insured's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
7. The IRO decision was sent to Claimant on January 12, 2015.
8. Claimant's DWC-49 appeal was received by the Division on February 11, 2015.
9. Pursuant to Rule 133.308(s)(1)(A), Claimant's appeal from the IRO decision was not timely filed.

### **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. Claimant's appeal from the IRO decision is denied because it was not timely filed.
4. The IRO decision is affirmed: Claimant is not entitled to a right total knee arthroplasty for the compensable injury of (Date of Injury).

### **DECISION**

Claimant is not entitled to a right total knee arthroplasty for the compensable injury of (Date of Injury).

**ORDER**

Claimant is not entitled to the relief he was seeking at this hearing.

Claimant remains entitled to medical benefits for the compensable injury in accordance with Section 408.021 of the Act.

The true corporate name of the Self-Insured is (**SELF INSURED**), and the name and address of its registered agent for service of process is

**SJ, CITY SECRETARY  
ADDRESS  
CITY, STATE ZIP**

Signed this 14th day of May, 2015.

Thomas Hight  
Hearing Officer