

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.

ISSUES

A contested case hearing was held on May 28, 2013 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization that Claimant is not entitled to left shoulder examination under anesthesia/diagnostic arthroscopy with debridement/subacromial decompression of shoulder/Mumford/Rotator Cuff Repair and superior labral tear from anterior to posterior repair for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by RPR, ombudsman.
Respondent/Carrier appeared and was represented by BJ, attorney.

EVIDENCE PRESENTED

No one testified.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits Numbers 1 and 2;

Claimant's Exhibits CL1 through CL11; and

Carrier's Exhibits R1 through R8.

BACKGROUND INFORMATION

After Claimant and Carrier presented opening argument, they requested time to talk in private. At the conclusion of the private meeting, the parties announced they were in agreement.

AGREEMENT

The parties reached an agreement. The agreement resolves only those issues to be decided at this hearing. The agreement does not resolve all issues with regard to this claim and is not a settlement.

In this decision, this Agreement section includes findings of fact and the Decision section constitutes the conclusions of law.

The parties agreed as follows:

- 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 Texas Mutual Insurance Company.
- D. 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.
- E. The preponderance of the evidence is not contrary to the decision of the Independent Review Organization that Claimant is not entitled to Mumford/Rotator Cuff Repair for the compensable injury of (Date of Injury).
- F. The preponderance of the evidence is contrary to the decision of the Independent Review Organization that Claimant is not entitled to left shoulder examination under anesthesia/diagnostic arthroscopy with debridement/subacromial decompression of shoulder, and superior labral tear from anterior to posterior repair for the compensable injury of (Date of Injury).

DECISION

Claimant is not entitled to Mumford/Rotator Cuff Repair for the compensable injury of (Date of Injury). Claimant is entitled to left shoulder examination under anesthesia/diagnostic arthroscopy with debridement/subacromial decompression of shoulder, and superior labral tear from anterior to posterior repair for the compensable injury of (Date of Injury).

ORDER

Carrier is liable for left shoulder examination under anesthesia/diagnostic arthroscopy with debridement/subacromial decompression of shoulder, and superior labral tear from anterior to posterior repair but is not liable for Mumford/Rotator Cuff Repair. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

RICHARD J. GERGASKO
TEXAS MUTUAL INSURANCE COMPANY
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723

Signed this 29th day of May, 2013.

Carolyn F. Moore
Hearing Officer