MEDICAL CONTESTED CASE HEARING NO 09003

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 August 14, 2008, to decide the following disputed issue:

1. Whether the preponderance of the evidence is contrary to the decision of the Independent Review Organization (IRO) that claimant is not entitled to vertebral axial decompression (S9090) and traction therapy (DRX9000) for the compensable injury of _____?

PARTIES PRESENT

Claimant appeared and was assisted by NC-T, ombudsman. Carrier appeared and was represented by JF, attorney.

BACKGROUND INFORMATION

On _____, Claimant injured his low back while throwing pennant lines for a crane. His treatment has included steroid injections, physical therapy and medication. Surgery has previously been denied. Dr. GL, his current treating doctor has recommended vertebral axial decompression (S9090) and traction therapy (DRX9000). The DRX9000 is a brand of mechanical lumbar traction table which uses a computer designed system to apply tension along the axis of the spine. Using the Official Disability Guidelines (ODG), the IRO denied the requested treatment.

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.

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 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.

With regard to the low back, under Vertebral axial decompression (VAX-D), the ODG states:

> "Not recommended. See Powered traction devices. A recent case series study (with no control) found that an 8-week course of traction using VAX-D was associated with improvements in pain intensity, but said that causal relationships between these outcomes and the intervention should not be made until further study is performed using randomized comparison groups. It should also be noted that this study excluded patients involved in litigation and those receiving workers' compensation. (Beattie, 2008)"

Under Powered traction devices such as the DRX9000, the ODG states:

> "Not recommended. While there are some limited promising studies, the evidence in support of powered traction devices in general, and specifically vertebral axial decompression, is insufficient to support its use in low back injuries. Vertebral axial decompression for treatment of low back injuries is not recommended. VAX-D therapy may also have risks, including the potential to cause sudden deterioration requiring urgent surgical intervention. Decompression therapy is intended to create negative pressure on the spine, so that the vertebrae are elongated, pressure is taken off the roots of the nerve, and a disk herniation may be pulled back into place. Decompression therapy is generally performed using a specially designed computerized mechanical table that separates in the middle. The above information applies to other brands of powered traction devices as well, including DRX and Lordex. Although the American Medical Association (AMA), FDA and Centers for Medicare and Medicaid Services (CMS) all consider decompression therapy to be a form of traction, the manufacturers of these devices consider them different from traction devices. (Sherry, 2001) (Gose, 1998) (Colorado, 2001) (Deen, 2003) (Ramos, 2004) (Humana, 2004) (BlueCross BlueShield, 2004) (Martin, 2005) (Clarke, 2007) (Chou, 2007) The evidence suggests that any form of traction is probably not effective. Neither continuous nor intermittent traction by itself was more effective in improving pain, disability or work absence than placebo, sham or other treatments for patients with a mixed duration of LBP, with or without sciatica. There was moderate evidence that autotraction (patient controlled) was more effective than mechanical traction (motorized pulley) for global improvement in this population. (Clarke-*Cochrane*, 2005) The efficacy of spinal decompression achieved with motorized traction for chronic discogenic low back pain remains unproved. (Macario, 2006) The most recent incarnation of traction therapy is non-surgical spinal decompression therapy which can cost over $100,000. This form of therapy has been heavily marketed to manual therapy professions and subsequently to the consumer. Only limited evidence is available to warrant the routine use of this therapy, particularly when many other well investigated, less expensive alternatives are available. (Daniel, 2007) The recent AHRQ review concluded that currently available evidence is too limited in quality and quantity to allow for the formulation of evidence-based conclusions regarding the efficacy of decompression therapy as a therapy for chronic back pain when compared with other non-surgical treatment options. (Jurecki-Tiller-AHRQ, 2007) A recent case series study (with no control) found that an 8-week course of prone lumbar traction (using VAX-D) was associated with improvements in pain intensity, but said that causal relationships between these outcomes and the intervention should not be made until further study is

performed using randomized comparison groups. It should also be noted that this study excluded patients involved in litigation and those receiving workers' compensation. (Beattie, 2008) A retrospective chart review (with no controls) provided preliminary data that chronic LBP may improve with DRX9000 spinal decompression, but concluded that randomized double-blind trials are needed to measure the efficacy of such systems. (Macario, 2008) See also Traction."

And finally, under Traction, the ODG states:

"Not recommended using powered traction devices, but home-based patient controlled gravity traction may be a noninvasive conservative option, if used as an adjunct to a program of evidence-based conservative care to achieve functional restoration. As a sole treatment, traction has not been proved effective for lasting relief in the treatment of low back pain. Traction is the use of force that separates the joint surfaces and elongates the surrounding soft tissues. (Beurskens, 1997) (Tulder, 2002) (van der Heijden, 1995) (van Tulder, 2000) (Borman, 2003) (Assendelft-Cochrane, 2004) (Harte, 2003) (Clarke, 2006) (Clarke, 2007) (Chou, 2007) The evidence suggests that any form of traction may not be effective. Neither continuous nor intermittent traction by itself was more effective in improving pain, disability or work absence than placebo, sham or other treatments for patients with a mixed duration of LBP, with or without sciatica. There was moderate evidence that autotraction (patient controlled) was more effective than mechanical traction (motorized pulley) for global improvement in this population. (Clarke-*Cochrane*, 2005) Traction has not been shown to improve symptoms for patients with or without sciatica. (Kinkade, 2007) The evidence is moderate for home based patient controlled traction compared to placebo. (Clarke, 2007) See also Powered traction devices; Vertebral axial decompression (VAX-D); & and Orthrotrac vest."

Although Dr. L agrees that Claimant does not meet the requirement of the ODG, he also provided a written report which finds that,

"Evidence Based Medicine supports the necessity [in that] there have been studies of the DRX9000 showing 86 percent of patients . . . will respond with reduced pain and improved functionality when completing a DRX 9000 treatment program."

However, Dr. L does not state the source of the study reference.

Offered by Carrier and admitted into evidence was a report "Vertebral Axial Decompression for Low Back Pain" published in February 2005 by ECB Evidence Based Practice Group (ECBG), Dr. CM, Senior Medical Advisor" which contained Level 1 evidence that "there is no evidence that the VAX-D system is effective in treating chronic LBP associated with herniated disc, degenerative disc, posterior facet syndrome, sciatica or radiculopathy." Level 1 evidence is the highest or best level in evidence based medicine because it is based on "evidence from at least 1 properly randomized controlled trial (RCT) or systematic reviews of RCTs". The ECBG relied on several studies and particularly a study by the Australian Medical Services Advisory Committee.

The preponderance of the evidence is not contrary to the findings of the IRO. Claimant is not entitled to the requested service.

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 _____, Claimant was the employee of (Employer), when he 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. Vertebral axial decompression (S9090) and traction therapy (DRX9000) is not health care reasonable required for the compensable injury of _____.

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 not contrary to the decision of the Independent Review Organization (IRO) that Claimant is not entitled to vertebral axial decompression (S9090) and traction therapy (DRX9000).

DECISION

The preponderance of the evidence is not contrary to the decision of the Independent Review Organization (IRO) that Claimant is not entitled to vertebral axial decompression (S9090) and traction therapy (DRX9000) for the compensable injury of _____..

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 **ARGONAUT INSURANCE COMPANY** and the name and address of its registered agent for service of process is

NATIONAL REGISTERED AGENTS, INC.
1614 SIDNEY BAKER STREET
KERRVILLE, TEXAS 78028

Signed this 14th day of August, 2008.

Charles T. Cole
Hearing Officer