MEDICAL CONTESTED CASE HEARING NO. 09117
M6-08-14918-01

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 benefit contested case hearing was held on March 5, 2009, 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 bilateral L4-5, L5-S1 facet medial nerve blocks for the compensable injury of _____?

PARTIES PRESENT

Claimant appeared and was represented by TR, attorney. Carrier appeared and was represented by attorney, TW.

BACKGROUND INFORMATION

Claimant sustained an injury to his low back as the result of a work-related motor vehicle accident.

Claimant's treating doctor, Dr. S, diagnosed lumbar spondylarthritis and discogenic syndrome. He initially treated Claimant with a bilateral L4 transforaminal epidural steroid injection, which provided no relief. Dr. S opined that Claimant's pain was being generated by an annular tear at L4-5 causing pain in the facet joints. He recommended bilateral L4-S1 facet medial nerve blocks for relief of Claimant's pain.

The first utilization reviewer, Dr. M, a board certified occupational medicine doctor, denied the requested facet medial nerve blocks citing the *Official Disability Guidelines* (*ODG*) and the fact that Claimant had radicular symptoms.

The second utilization reviewer, Dr. B, a physical medicine/rehabilitation doctor, also denied the requested services. Dr. B also cited the *ODG* and opined that as Claimant's symptoms were consistent with radiculopathy, the requested treatment was not indicated.

An IRO reviewer, board certified in psychiatry, pain medicine and forensic psychiatry, upheld the carrier's denial of the requested bilateral L4-5, L5-S1 facet medial nerve block. The IRO reviewer stated that the records show that Claimant had evidence of radiculopathy and his MRI revealed focal herniation at L4-5 with annular tear. The reviewer concluded, per the *ODG*, that medial branch blocks are not supported with evidence of radiculopathy.

DISCUSSION

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. **Section 401.011(22-a)** defines health care reasonably required 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: (A) evidence based medicine; or (B) if that evidence is not available, generally accepted standards of medical practice recognized in the medical community."

"Evidence based medicine" is further defined, by **Section 401.011(18-a)** as 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 making decisions about the care of individual patients.

The Division of Workers' Compensation has adopted treatment guidelines under Division **Rule 137.100**. That rule requires that health care providers provide treatment in accordance with the current edition of the *Official Disability Guidelines (ODG),* and treatment provided pursuant to those guidelines is presumed to be health care reasonably required as mandated by the above-referenced sections of the **Texas Labor Code**.

ODG

The initial inquiry, therefore, in any dispute regarding medical necessity, is whether the proposed care is consistent with the *ODG*. As the IRO doctor in the instant case stated, the *ODG* allow for facet joint intra-articular injections (therapeutic blocks) for the treatment of low back injuries and sets out the circumstances under which such treatment is recommended as reasonable and necessary.

The *ODG* discuss facet joint intra-articular injections (therapeutic blocks) for the treatment of the low back as follows:

> Under study. Current evidence is conflicting as to this procedure and at this time no more than one therapeutic intra-articular block is suggested. If successful (pain relief of at least 50% for a duration of at least 6 weeks), the recommendation is to proceed to a medial branch diagnostic block and subsequent neurotomy (if the medial branch block is positive). If a therapeutic facet joint block is undertaken, it is suggested that it be used in consort with other evidence based conservative care (activity, exercise, etc.) to facilitate functional improvement. (Dreyfuss, 2003) (Colorado, 2001) (Manchikanti , 2003) (Boswell, 2005) See Segmental rigidity (diagnosis). In spite of the overwhelming lack of evidence for the long-term effectiveness of intra-articular steroid facet joint injections, this remains a popular treatment modality. Intra-articular facet joint injections have been popularly utilized as a therapeutic procedure, but are not currently recommended as a treatment modality in most evidence-based reviews as their benefit remains controversial. The therapeutic facet joint injections described here are injections of a steroid (combined with an anesthetic agent) into the facet joint under fluoroscopic guidance to provide temporary pain relief. (Dreyfuss, 2003) (Nelemans-Cochrane, 2000) (Carette, 1991) (Nelemans, 2001) (Slipman, 2003) (van Tulder, 2006) (Colorado, 2001) (ICSI, 2004) (Bogduk, 2005) (Resnick, 2005) (Airaksinen, 2006) An updated Cochrane review of

injection therapies (ESIs, facets, trigger points) for low back pain concluded that there is no strong evidence for or against the use of any type of injection therapy, but it cannot be ruled out that specific subgroups of patients may respond to a specific type of injection therapy. (Staal-*Cochrane*, 2009)

Systematic reviews endorsing therapeutic intra-articular facet blocks:

Pain Physician, 2005: In 2005 there were two positive systematic reviews published in *Pain Physician* that stated that the evidence was moderate for short-term and limited for long-term improvement using this intervention. (Boswell, 2005) (Boswell, 2005) These results were based, in part, on five observational studies. These non-controlled studies were confounded by variables such as lack of confirmation of diagnosis by dual blocks and recording of subjective pain relief, or with measures that fell under verbal rating and/or pain relief labels (measures that have been reported to have problems with validity). (Edwards, 2005)

Pain Physician, 2007: Pain Physician again published a systematic review on this subject in 2007 and added one additional randomized trial comparing intra-articular injections with sodium hyaluronate to blocks with triamcinolone acetonide. The diagnosis of facet osteoarthritis was made radiographically. (Fuchs, 2005) Two randomized trials were not included, in part, as they failed to include controlled diagnostic blocks. These latter articles were negative toward the use of therapeutic facet blocks. (Lilius, 1989) (Marks, 1992) An observational non-controlled study that had positive results was included that made the diagnosis of lumbar facet syndrome based on clinical assessment of "pseudoradicular" lumbar pain, including evidence of an increase of pain in the morning and with excessive stress and exercise (no diagnostic blocks were performed). (Schulte, 2006) With the inclusion of these two articles the conclusion was changed so that the evidence for lumbar intra-articular injections was "moderate" for both short-and long-term improvement of low back pain. (Boswell2, 2007)

Complications: These included suppression of the hypothalamic-pituitary-adrenal axis for up to 4 weeks due to steroids with resultant elevated glucose levels for less than a week. (Ward, 2002) There have been rare cases of infection (septic arthritis, epidural abscess and meningitis). (Cohen, 2007) Complications from needle placement include dural puncture, spinal cord trauma, intraartierial and intravenous injection, spinal anesthesia, neural trauma, pneumothorax, and hematoma formation. (Boswell2, 2007)

Single photon emission computed tomography: (bone scintigraphy, SPECT scan): Not recommended although recent research is promising. This technique is recommended based on the ability of radionuclide bone scintigraphy to detect areas of increased function, depicting synovial areas of inflammation as well as degenerative changes. Thirteen of 15 patients had a > 1 standard deviation pain score improvement at 1 month versus 7 of 32 patients with a negative or no scan. The benefit of the injection lasted for approximately 3 months and did not persist to 6 months. (Pneumaticos2, 2006) See also Facet joint diagnostic blocks (injections); Facet joint pain, signs & symptoms; Facet joint radiofrequency neurotomy; Facet joint medial branch blocks (therapeutic injections); & Segmental rigidity (diagnosis). Also see Neck Chapter and Pain Chapter.

Criteria for use of therapeutic intra-articular and medial branch blocks, are as follows:

1. No more than one therapeutic intra-articular block is recommended.
2. There should be no evidence of radicular pain, spinal stenosis, or previous fusion.

3. If successful (initial pain relief of 70%, plus pain relief of at least 50% for a duration of at least 6 weeks), the recommendation is to proceed to a medial branch diagnostic block and subsequent neurotomy (if the medial branch block is positive).
4. No more than 2 joint levels may be blocked at any one time.
5. There should be evidence of a formal plan of additional evidence-based activity and exercise in addition to facet joint injection therapy.

As noted previously herein, "health care reasonably required" means 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 that evidence is not available, generally accepted standards of medical practice recognized in the medical community. Treatment provided pursuant to the *ODG* is presumed to be health care reasonably required.

The board-certified IRO reviewer denied the requested procedure citing the relevant provisions of the *ODG*, specifically the fact that the guidelines specifically exclude patients with radicular symptoms from consideration for the treatment requested herein. The IRO report is specific and sets out exactly how Claimant fails to meet the criteria set out in the *ODG*.

Under the Act, treatment provided pursuant to the *ODG* is presumed to be health care reasonably required as mandated by the above-referenced sections of the **Texas Labor Code**. Claimant failed to present an evidence-based medical opinion from a competent source to overcome the IRO's decision. The preponderance of the evidence is not contrary to the IRO decision and the requested bilateral L4-5, L5-S1 facet medial nerve blocks do not meet the criteria set out in the *ODG*.

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. In the interest of judicial economy, the parties agreed to hear this case in the (City) Field Office.

   B. On _____, Claimant was the employee of (Employer), when he sustained a compensable injury.

   C. The IRO determined that the requested services were not reasonable and necessary health care services for the compensable injury of _____.

2. Carrier delivered to Claimant a single document stating the true corporate name of Carrier, and name and street address of Carrier's registered agent which was admitted into evidence as Hearing Officer's Exhibit Number 2.

3. Claimant's treating doctor recommended bilateral L4-5, L5-S1 facet medial nerve blocks for treatment of Claimant's compensable low back injury.

4. For treatment of the low back, the *ODG* sets out the circumstances under which bilateral L4-5, L5-S1 facet medial nerve blocks are recommended.

5. Claimant has evidence of radiculopathy as evidenced by MRI and clinical presentation.

6. The IRO decision upheld the Carrier's denial of the requested bilateral L4-5, L5-S1 facet medial nerve blocks because the requested procedure did not meet the criteria set out in the *ODG*.

7. The requested service is not consistent with the *ODG* criteria for bilateral L4-5, L5-S1 facet medial nerve blocks.

8. The requested bilateral L4-5, L5-S1 facet medial nerve blocks are not health care reasonably 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 was proper in the (City) Field Office.

3. The preponderance of the evidence is not contrary to the decision of IRO that bilateral L4-5, L5-S1 facet medial nerve blocks are not health care reasonably required for the compensable injury of _____.

DECISION

Claimant is not entitled to bilateral L4-5, L5-S1 facet medial nerve blocks 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 Section 408.021.

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

CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701

Signed this 17th day of March, 2009.
Erika Copeland
Hearing Officer