

**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 medical contested case hearing was held on March 5, 2009 to decide the following disputed issues:

1. Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (hereinafter "IRO") that the Claimant is not entitled to left shoulder manipulation under anesthesia for the compensable injury of \_\_\_\_\_?

**PARTIES PRESENT**

Petitioner failed to appear for the medical contested case hearing and did not respond to the Division's 10-day letter. Carrier / Respondent appeared and was represented by CA, attorney. The Claimant did not appear and did not respond to the Division's 10-day letter.

**BACKGROUND INFORMATION**

Although properly notified, Petitioner failed to appear for the medical contested case hearing scheduled for 10:00 a.m. on March 5, 2009. A letter advising that the hearing had convened and that the record would be held open for ten days to afford the Petitioner the opportunity to respond and request that the hearing be rescheduled to permit him to present evidence on the disputed issue(s) was faxed and mailed to the Petitioner on March 9, 2009. The Petitioner failed to respond to the Division's 10-day letter and, on March 27, 2009, the record was closed. Having failed to appear and offer evidence in support of the requested health care service(s), the Petitioner did not show by a preponderance of evidence-based medicine that the requested health care service(s) is health care reasonably required for the compensable injury of \_\_\_\_\_.

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. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
2. On \_\_\_\_\_, Claimant was the employee of (Employer).
3. On \_\_\_\_\_, Claimant sustained a compensable injury.

4. The IRO determined that the Claimant should not have left shoulder manipulation under anesthesia for the compensable injury of \_\_\_\_\_.
5. The Division sent a single document stating the true corporate name of the Carrier / Respondent and the name and street address of Carrier / Respondent's registered agent for service with the 10-day letter to the Petitioner at the Petitioner's address of record. That document was admitted into evidence as Hearing Officer Exhibit Number 2.
6. Petitioner failed to appear for the March 5, 2009 medical contested case hearing and did not respond to the Division's letter offering him the opportunity to have the hearing rescheduled.
7. Petitioner did not have good cause for failing to appear at the medical contested case hearing.
8. Left shoulder manipulation under anesthesia is not health care reasonably required for the compensable injury of \_\_\_\_\_.

### **CONCLUSIONS OF LAW**

1. The Texas Department of Insurance, Division of Workers' Compensation, does not have 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 IRO that left shoulder manipulation under anesthesia is not health care reasonably required for the compensable injury of \_\_\_\_\_.

### **DECISION**

The Claimant is not entitled to left shoulder manipulation under anesthesia for the compensable injury of \_\_\_\_\_.

### **ORDER**

The Carrier / Respondent is not liable for the service(s) at issue in this hearing. The Claimant remains entitled to medical benefits for the compensable injury in accordance with § 408.021.

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

**LEO F. MALO  
12222 MERIT DR. SUITE 700  
DALLAS, TEXAS 75251**

Signed this 30th day of March, 2009.  
Julio Gomez, Jr.  
Hearing Officer