MEDICAL CONTESTED CASE HEARING NO 11152
M6-11-34063-01

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.

ISSUES

A contested case hearing was held on July 13, 2011 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 MRI left knee for the compensable injury of (Date of Injury)?

PARTIES PRESENT

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

BACKGROUND INFORMATION

Claimant sustained a compensable injury to her left knee on (Date of Injury). A left knee MRI was done on December 9, 2009 and showed chondromalacia, no joint effusion or loose body, and intact menisci and ligaments. She received conservative care but continued to be symptomatic. Dr. W recommended another left knee MRI in March 2011. The IRO doctor, a board certified orthopedic surgeon, upheld the previous denials.

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. The Commissioner of the Division of Workers' Compensation is required to adopt treatment guidelines that are evidence-

based, scientifically valid, outcome-focused and designed to reduce excessive or inappropriate medical care while safeguarding necessary medical care. Texas Labor Code Section 413.011(e). Medical services consistent with the medical policies and fee guidelines adopted by the commissioner are presumed reasonable in accordance with Texas Labor Code Section 413.017(1).

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 Official Disability Guidelines (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. Also, in accordance with Division Rule 133.308 (t), "A decision issued by an IRO is not considered an agency decision and neither the Department nor the Division are considered parties to an appeal. In a Contested Case Hearing (CCH), the party appealing the IRO decision has the burden of overcoming the decision issued by an IRO by a preponderance of evidence-based medical evidence."

The ODG provides the following concerning MRI of the knee:

> Recommended as indicated below. Soft-tissue injuries (meniscal, chondral surface injuries, and ligamentous disruption) are best evaluated by MRI. (ACR, 2001) See also ACR Appropriateness Criteria™. Diagnostic performance of MR imaging of the menisci and cruciate ligaments of the knee is different according to lesion type and is influenced by various study design characteristics. Higher magnetic field strength modestly improves diagnostic performance, but a significant effect was demonstrated only for anterior cruciate ligament tears. (Pavlov, 2000) (Oei, 2003) A systematic review of prospective cohort studies comparing MRI and clinical examination to arthroscopy to diagnose meniscus tears concluded that MRI is useful, but should be reserved for situations in which further information is required for a diagnosis, and indications for arthroscopy should be therapeutic, not diagnostic in nature. (Ryzewicz, 2007) This study concluded that, in patients with nonacute knee symptoms who are highly suspected clinically of having intraarticular knee abnormality, magnetic resonance imaging should be performed to exclude the need for arthroscopy. (Vincken, 2007) In most cases, diagnosing osteoarthritis with an MRI is both unnecessary and costly. Although weight-bearing X-rays are sufficient to diagnose osteoarthritis of the knee, referring physicians and some orthopaedic surgeons sometimes use magnetic resonance imaging (MRI) either with or instead of weight bearing X-rays for diagnosis. For total knee arthroplasty (TKA) patients, about 95% to 98% of the time they don't need an MRI. Osteoarthritis patients often expect to be diagnosed with MRIs, and this demand influences MRI use. Average worker's compensation reimbursement

is also higher for the knee MRI ($664) than for the knee X-rays ($136). (Goldstein, 2008) Repeat MRIs are recommended if need to assess knee cartilage repair tissue. In determining whether the repair tissue was of good or poor quality, MRI had a sensitivity of 80% and specificity of 82% using arthroscopy as the standard. (Ramappa, 2007) MRI scans are accurate to diagnose meniscus tears, but MRI is a poor predictor of whether or not the tear can be repaired. Surgeons cannot tell whether the tear will be reparable until the surgery is underway, and it affects recovery because repaired meniscus tears have a more involved recovery compared with surgical removal of the tissue. (Bernthal, 2010) In this case series, in more than half of patients who had an MRI at the request of their referring physician, the MRI was not necessary. MRI was considered unnecessary if: X-rays alone could establish the diagnosis, patellofemoral pain with a normal ligamentous and meniscal exam, the knee pain resolved before seeing an orthopedic surgeon, or the MRI findings had no effect on treatment outcome. MRI studies were deemed necessary if they were indicated by history and/or physical examination to assess for meniscal, ligamentous, or osteochondral injury or osteonecrosis, or if the patient had an unexpected finding that affected treatment. (Khanuja, 2011)

Indications for imaging -- MRI (magnetic resonance imaging):

- Acute trauma to the knee, including significant trauma (e.g, motor vehicle accident), or if suspect posterior knee dislocation or ligament or cartilage disruption.
- Nontraumatic knee pain, child or adolescent: nonpatellofemoral symptoms. Initial anteroposterior and lateral radiographs nondiagnostic (demonstrate normal findings or a joint effusion) next study if clinically indicated. If additional study is needed.
- Nontraumatic knee pain, child or adult. Patellofemoral (anterior) symptoms. Initial anteroposterior, lateral, and axial radiographs nondiagnostic (demonstrate normal findings or a joint effusion). If additional imaging is necessary, and if internal derangement is suspected.
- Nontraumatic knee pain, adult. Nontrauma, nontumor, nonlocalized pain. Initial anteroposterior and lateral radiographs nondiagnostic (demonstrate normal findings or a joint effusion). If additional studies are indicated, and if internal derangement is suspected.
- Nontraumatic knee pain, adult - nontrauma, nontumor, nonlocalized pain. Initial anteroposterior and lateral radiographs demonstrate evidence of internal derangement (e.g., Peligrini Stieda disease, joint compartment widening).
- *Repeat MRIs:* Post-surgical if need to assess knee cartilage repair tissue. (Ramappa, 2007)

The IRO doctor observed that Claimant had a previous left knee MRI in December 2009 showing chondromalacia but no other abnormalities and a subsequent lapse in treatment lasting approximately one year, then presented in February 2011 with a history of worsening left knee pain over the past six weeks. The IRO doctor noted that there was no indication of re-injury to the left knee or any surgical intervention, and that the examination of Claimant's knee in February 2011 was "essentially the same" as a previous examination a year earlier. The IRO doctor concluded that, given the lack of significant change in clinical findings and no evidence of prior surgery, a repeat MRI of the left knee was not medically necessary.

Claimant testified briefly concerning her injury. There were records for some of Claimant's visits to Dr. W and the reports for prior left and right knee MRIs. There was no offer of evidence based medical evidence to overcome the IRO decision. There was no objection to the testimony, reports, or qualifications of any doctor.

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 (Date of Injury) Claimant was the employee of (SELF-INSURED), Employer.

   C. On (Date of Injury) Employer provided workers' compensation insurance as a Self-Insurer.

   D. On (Date of Injury) Claimant sustained a compensable injury.

   E. The Independent Review Organization determined Claimant should not have the requested treatment.

2. 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.

3. MRI left knee is not health care reasonably required for the compensable injury of (Date of Injury).

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 IRO that MRI left knee is not health care reasonably required for the compensable injury of (Date of Injury).

DECISION

Claimant is not entitled to MRI left knee for the compensable injury of (Date of Injury).

ORDER

Self-Insured 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 of the Act.

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

(SELF-INSURED)
(STREET ADDRESS)
(CITY), TEXAS (ZIP CODE)

Signed this 13th day of July, 2011.

Thomas Hight
Hearing Officer