

MEDICAL CONTESTED CASE HEARING NO. 16061

**DECISION AND ORDER**

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and the Rules of the Texas Department of Insurance, Division of Workers' Compensation. For the reasons discussed herein, the Hearing Officer determines that Claimant is not entitled to the right sided C6 stellate ganglion block for the compensable injury of (Date of Injury).

**STATEMENT OF THE CASE**

On February 22, 2017, Mayson Pearson, a Division Hearing Officer, held a contested case hearing 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 the a right sided C6 stellate ganglion block for the compensable injury of (Date of Injury)?

**PARTIES PRESENT**

Petitioner/Claimant appeared and was assisted by CN, ombudsman. Respondent/Carrier appeared and was represented by LM, attorney.

**EVIDENCE PRESENTED**

The following witnesses testified:

For Claimant: Claimant

For Carrier: GP, M.D.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits: HO-1 and HO-2

Claimant's Exhibits: C-1 through C-3

Carrier's Exhibits: CR-A through CR-D

**DISCUSSION**

Claimant sustained a compensable injury to her right thumb on (Date of Injury). Claimant's compensable injury developed into complex regional pain syndrome involving the right upper extremity. Claimant is treating with UD, M.D. Claimant received stellate ganglion blocks on

January 11, 2016 and June 8, 2016. The medical records show that on June 8, 2016 Dr. D noted that Claimant was there for a follow-up visit for upper arm pain with a current pain level of 6/10 and minimal pain relief with previous therapies. At that time, Dr. D recommended a stellate ganglion block to be performed on the right-sided C6.

Carrier denied the request for the ganglion block recommended by Dr. D, and Claimant sought review by an IRO. The IRO reviewer, identified as a board-certified orthopedic surgeon upheld the Carrier's denial. The IRO reviewer referred to the limited documentation of the past injections effectiveness. He also noted that it was not clear what the duration of the effect was for the injection or the ability of the patient to have any significant medical reduction as well as functional improvement.

Texas Labor Code §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 §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 §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 §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 §413.017(1).

In accordance with the above statutory guidance, the Division of Workers' Compensation has adopted treatment guidelines by 28 TAC §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. Also, in accordance with 28 TAC §133.308(s), "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."

For the requested ganglion block, the ODG provides:

Recommendations (based on consensus guidelines) for use of sympathetic blocks (diagnostic block recommendations are included here, as well as in CRPS, diagnostic tests):

- (1) There should be evidence that all other diagnoses have been ruled out before consideration of use.
- (2) There should be evidence that the Budapest (Harden) criteria have been evaluated for and fulfilled.
- (3) If a sympathetic block is utilized for diagnosis, there should be evidence that this block fulfills criteria for success including that skin temperature after the block shows sustained increase ( $\geq 1.5^{\circ}\text{C}$  and/or an increase in temperature to  $> 34^{\circ}\text{C}$ ) without evidence of thermal or tactile sensory block. Documentation of motor and/or sensory block should occur. This is particularly important in the diagnostic phase to avoid overestimation of the sympathetic component of pain. A Horner's sign should be documented for upper extremity blocks. [Successful stellate block would be noted by Horner's syndrome, characterized by miosis (a constricted pupil), ptosis (a weak, droopy eyelid), or anhidrosis (decreased sweating).] The use of sedation with the block can influence results, and this should be documented if utilized. (*Krumova, 2011*) (*Schurmann, 2001*)
- (4) Therapeutic use of sympathetic blocks is only recommended in cases that have positive response to diagnostic blocks and diagnostic criteria are fulfilled (See #1-3). These blocks are only recommended if there is evidence of lack of response to conservative treatment including pharmacologic therapy and physical rehabilitation.
- (5) In the initial therapeutic phase, maximum sustained relief is generally obtained after 3 to 6 blocks. These blocks are generally given in fairly quick succession in the first two weeks of treatment with tapering to once a week. Continuing treatment longer than 2 to 3 weeks is unusual.
- (6) In the therapeutic phase repeat blocks should only be undertaken if there is evidence of increased range of motion, pain and medication use reduction, and increased tolerance of activity and touch (decreased allodynia) is documented to permit participation in physical therapy/ occupational therapy. Sympathetic blocks are not a stand-alone treatment.
- (7) There should be evidence that physical or occupational therapy is incorporated with the duration of symptom relief of the block during the therapeutic phase.
- (8) In acute exacerbations of patients who have documented evidence of sympathetically mediated pain (see #1-3), 1 to 3 blocks may be required for treatment.

(9) A formal test of the therapeutic blocks should be documented (preferably using skin temperature).

*(Burton, 2006) (Stanton-Hicks, 2004) (Stanton-Hicks, 2006) (International Research Foundation for RSD/CRPS, 2003) (Colorado, 2006) (Washington, 2002) (Rho, 2002) (Perez, 2010) (van Eijs, 2011)*

Claimant presented a letter of medical necessity from Dr. D, as well as her medical records, in support of her position that the requested ganglion block met the applicable ODG criteria. Dr. D notes that on June 8, 2016, Claimant showed clinical signs of ongoing complex regional pain syndrome and that after her previous ganglion blocks she showed improvement despite her medications not being reduced. However, as stated by the IRO reviewer and set out by the applicable ODG criteria that there must be documented improvement. The medical records do not establish that Claimant has met this requirement.

Considering the medical evidence in the record, the Hearing Officer determines that Claimant has not met her burden to overcome the decision of the IRO by a preponderance of evidence-based medical evidence. Therefore, it is determined that Claimant is not entitled to the right sided C6 stellate ganglion block for the compensable injury of (Date of Injury).

The Hearing Officer considered all of the evidence admitted. The Findings of Fact and Conclusions of Law are based on an assessment of all of the evidence whether or not the evidence is specifically discussed in this Decision and Order.

### **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 (Employer), Employer.
  - C. On (Date of Injury), Employer provided workers' compensation coverage as a self-insured.
  - D. Claimant sustained a compensable injury on (Date of Injury).
  - E. The IRO determined that the a right sided C6 stellate ganglion block is not medically necessary for the compensable injury of (Date of 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. Claimant does not meet the requirements of the ODG for the a right sided C6 stellate ganglion block.
4. The right sided C6 stellate ganglion block 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 the right sided C6 stellate ganglion block is not health care reasonably required for the compensable injury of (Date of Injury).

### **DECISION**

Claimant is not entitled to the right sided C6 stellate ganglion block for the compensable injury of (Date of Injury).

### **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 Labor Code §408.021.

The true corporate name of the insurance carrier is **(SELF\_INSURED)**, and the name and address of its registered agent for service of process is:

**(NAME)**  
**(COMPANY)**  
**(STREET ADDRESS)**  
**(CITY, STATE, ZIPCODE)**

Signed this 22th<sup>day</sup> of February, 2017.

Mayson Pearson  
Hearing Officer