

MEDICAL CONTESTED CASE HEARING NO. 18001

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 Administrative Law Judge determines that Claimant is not entitled to the total body bone scan for the compensable injury of (Date of Injury).

STATEMENT OF THE CASE

On January 8, 2018, Mayson Pearson, a Division administrative law judge, 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 total body bone scan for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by GS, ombudsman.
Respondent/Carrier appeared and was represented by RH, attorney.

EVIDENCE PRESENTED

The following witnesses testified:

For Claimant: Claimant
For Carrier: None

The following exhibits were admitted into evidence:

Administrative Law Judge's Exhibits: ALJ-1 and AJL-2
Claimant's Exhibits: C-1 through C-11
Carrier's Exhibits: CR-A through CR-E

DISCUSSION

Claimant sustained a compensable injury on (Date of Injury) when he slipped in the rain and hurt his knee. Claimant was diagnosed with a right meniscal tear and underwent a surgical repair. Claimant is treating with Dr. DS, M.D. Dr. S recommended a total body bone scan.

Carrier denied the request for the total body bone scan recommended by Dr. S, 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 Claimant's underlying pathology of medial compartment osteoarthritis and noted that Claimant has not had a knee replacement.

The Texas Administrative Code 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 full body bone scan, the ODG provides:

Recommended after total knee replacement if pain caused by loosening of implant suspected. In pain after total knee arthroplasty, after a negative radiograph for loosening and a negative aspiration for infection, a bone scan is a reasonable screening test.

Claimant presented his medical records and a narrative from Dr. S in support of his position that the total body bone scan met the applicable ODG criteria. The medical records do not establish that Claimant has met the requirements for a full body bone scan.

Considering the medical evidence in the record, the Administrative Law Judge determines that Claimant has not met his 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 total body bone scan for the compensable injury of (Date of Injury).

The Administrative Law Judge 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 total body bone scan 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 Administrative Law Judge's Exhibit Number 2.
 3. Claimant does not meet the requirements of the ODG for the total body bone scan.
 4. The total body bone scan 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 total body bone scan is not health care reasonably required for the compensable injury of (Date of Injury).

DECISION

Claimant is not entitled to the total body bone scan 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 **(EMPLOYER)**, and the name and address of its registered agent for service of process is:

(NAME)
(ADDRESS)
(CITY), TEXAS (ZIPCODE)

Signed this 9th of January, 2018.

Mayson Pearson
Administrative Law Judge