MEDICAL CONTESTED CASE HEARING NO. 18031

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 (ALJ) determines that:

> Claimant is not entitled to lumbar sympathetic block L3 for the compensable injury of (Date of Injury).

STATEMENT OF THE CASE

On November 15, 2018 Warren E. Hancock, Jr., a Division administrative law judge, held a contested case hearing to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the IRO that Claimant is not entitled to left lumbar sympathetic block L3 for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Claimant appeared and was assisted by MM, ombudsman. Carrier appeared and was represented by JT, attorney.

EVIDENCE PRESENTED

The following witnesses testified:

> For Claimant: Claimant.
>
> For Carrier: None.

The following exhibits were admitted into evidence:

> ALJ's Exhibits ALJ-1 and ALJ-2.
>
> Claimant's Exhibits C-1 through C-10.
>
> Carrier's Exhibits CR-A through CR-F.

DISCUSSION

Claimant is a (Age)-year-old (Job Title) for Employer who fell on a flight of stairs on (Date of Injury), injuring her left ankle. She developed complex regional pain syndrome (CRPS) of the left lower extremity which has been accepted by Carrier as part of the injury. Claimant is

treating with BE, D. O. who has administered lumbar sympathetic blocks, the first on December 7, 2017 and another on January 1, 2018, for treatment of Claimant's CRPS. Another sympathetic block has been requested. On August 6, 2018, the request was reviewed by PN, D.O., a board-certified anesthesiologist, as Carrier Utilization Reviewer. He noted that Claimant had a previous sympathetic block and that no percentage of relief nor length of time of relief was documented by Claimant's physicians. He pointed out that under Official Disability Guidelines (ODG), documentation of a positive response to a previous injection in the form of 50% or greater pain relief for the duration of the local anesthetic and pain relief should be associated with functional improvement. An appeal was made to Carrier for reconsideration. The reconsideration reviewer was by MR, M.D., a specialist in physical medicine and rehabilitation on July 11, 2018. Dr. R also reported that medical necessity of the requested injection was not shown, stating that there was insufficient documentation of 50% pain relief for the duration of the anesthetic associated with functional improvement from the prior blocks. Claimant appealed the adverse determinations to an Independent Review Organization (IRO) where the request for treatment was reviewed by a healthcare provider specializing in anesthesiology on September 14, 2018. The IRO reviewer upheld previous denials stating that the ODG notes that 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) that would permit participation in physical therapy/occupational therapy, and that sympathetic blocks are not a stand-alone treatment. The records were not found to document objective functional response to prior procedures to stablish efficacy of treatment and justify additional blocks. From these denials, Claimant has timely appealed for a contested case hearing to review the 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 (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."

The ODG provides as follows regarding the requested lumbar sympathetic blocks:

CRPS, sympathetic blocks (therapeutic)

Recommend local anesthetic sympathetic blocks for limited, select cases, as indicated below. Not recommend IV regional anesthesia blocks.

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 (≥ 1.5° C and/or an increase in temperature to > 34° 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*) (*Schürmann, 2007*)

(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 medicated 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*) (*IRF for RSD or CRPS, 2003*) (*Colorado, 2006*) (*Washington, 2002*) (*Rho, 2002*) (*Perez, 2010*) (*van Eijs, 2011*)

Local anesthetic sympathetic blocks:

Recommended for limited, select cases, primarily for diagnosis of sympathetically mediated pain and therapeutically as an adjunct to facilitate physical therapy/ *functional restoration*. When used for therapeutic purposes the procedure is not considered a stand-alone treatment. The role of sympathetic blocks for treatment of CRPS is largely empirical (with a general lack of evidence-based research for support) but can be clinically important in individual cases in which the procedure ameliorates pain and improves function, allowing for a less painful "window of opportunity" for rehabilitation techniques. (*Harden, 2013*) Use of sympathetic blocks should be balanced against the side effect ratio and evidence of limited response to treatment. See *CRPS, diagnostic tests*.

IV regional anesthesia*:* Not recommended due to lack of evidence for use. This procedure is a technique that allows placement of medications directly in the effected extremity but current literature indicates efficacy is poor. (*Harden, 2013*) There is no role for IV diagnostic blocks with phentolamine or IVRA with guanethidine. Other procedures include IV regional blocks with lidocaine, lidocaine-methyl-prednisolone, droperidol, ketanserin, atropine, bretylium clonidine, and reserpine. If used, there must be evidence that current CRPS criteria have been met and all other diagnoses have been ruled out. Evidence of sympathetically mediated pain should be provided (see the recommendations below). The reason for the necessity of this

procedure over-and-above a standard sympathetic block should also be provided. (*Perez, 2010*) (*Harden, 2013*) (*Tran, 2010*) See also *CRPS, treatment*.

General information on sympathetic procedures

Current literature: A recent study indicated that there was low-quality literature to support this procedure (some evidence of effect, but conclusions were limited by study design, divergent CRPS diagnostic criteria, differing injection techniques and lack of consistent criteria for positive response). Results were inconsistent and/or extrapolation of questionable reliability with inconclusive evidence to recommend for or against the intervention. (*Dworkin, 2013*) Other studies have found evidence non-conclusive for this procedure or that low-quality evidence showed this procedure was not effective. (*O'Connell, 2013*) (*Tran, 2010*) The blocks are thought to be most beneficial when used early in the disease as an adjunct to rehabilitation with physical or occupational therapy. No controlled trials have shown any significant benefit from sympathetic blockade. (*Dworkin 2013*) (*O'Connell, 2013*) (*Tran, 2010*) (*van Eijs, 2012*) (*Perez, 2010*) (*van Eijs, 2011*) (*Nelson, 2006*) (*Varrassi, 2006*) (*Cepeda, 2005*) (*Hartrick, 2004*) (*Grabow, 2005*) (*Cepeda, 2002*) (*Forouzanfar, 2002*) (*Sharma, 2006*)

Historical basis for use: The use of sympathetic blocks for diagnostic and therapeutic purposes in the management of CRPS is based on a previous hypothesis concerning the involvement of the sympathetic nervous system in the pathophysiological mechanism of the disease. (*van Eijs, 2012*) It has been determined that a sympathetic mechanism is only present in a small subset of patients, and less than 1/3 of patients with CRPS are likely to respond to sympathetic blockade. See *Sympathetically maintained pain* (SMP).

Predictors of response: Researchers have suggested the following are predictors of poor response to blocks: (1) Long duration of symptoms prior to intervention; (2) Elevated anxiety levels; (3) Poor coping skills; (4) Litigation; (5) Allodynia and hypoesthesia. At this time there are no symptoms or signs that predict treatment success. (*Hartrick, 2004*) (*Nelson, 2006*) (*van Eijs, 2012*)

Interpretation of block results: There is a lack of consensus in terms of defining a successful sympathetic block. Based on consensus, a current suggestion of successful block is one that demonstrates an adequate and sustained increase in skin temperature ($\geq 1.5°$ C and/or an increase in temperature to $> 34°$ C) without evidence of thermal or tactile sensory block. A Horner's sign is should be documented for upper extremity blocks.

Dr. E's office note on March 20, 2018 indicated that Claimant had "good relief from the previous injections that we have done". He recommended continuation of her current pain medications. On June 26, 2018, he recommended a repeat left lumbar sympathetic block "to try to stay ahead of her worsening symptoms". It is apparent that Claimant's treating physician who is requesting the disputed treatment has failed to document the degree of improvement from prior injections

which is required under evidence-based medical guidelines to justify another injection. There was no proof of other evidence-based medical evidence allowing a lesser degree of response to justify the additional requested injection.

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 through Indemnity Insurance Company of North America, Carrier.

   D. Claimant sustained a compensable injury on (Date of Injury) in the form of at least the Carrier-accepted conditions of left foot/ankle CRPS, left knee strain, left ankle sprain/strain, enthesopathy of the left foot, left common peroneal nerve lesion, and left ankle fibromyositis.

   E. The injury is not covered by a workers' compensation healthcare network.

   F. The IRO determined that left lumbar sympathetic block L3 is not healthcare reasonably required 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. Left lumbar sympathetic block L3 is not healthcare reasonable 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 Claimant is not entitled to left lumbar sympathetic block L3 for the compensable injury of (Date of Injury).

DECISION

Claimant is not entitled to left lumbar sympathetic block L3 for the compensable injury of (Date of Injury).

ORDER

Carrier is not liable for the benefits at issue in this hearing, and it is so ordered. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA,** and the name and address of its registered agent for service of process is

C T CORPORATION SYSTEM
1999 BRYAN ST, STE 900
DALLAS, TX 75201-3136

Signed this 26th day of November, 2018.

Warren E. Hancock, Jr.
Administrative Law Judge