

MEDICAL CONTESTED CASE HEARING NO. 200010

**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 determined that the preponderance of the evidence is not contrary to the decision of the Independent Review Organization (IRO) that Claimant/Petitioner (Claimant) is not entitled to a right sacroiliac joint injection.

**STATEMENT OF THE CASE**

On July 6, 2020, Kara Squier, 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 IRO that Claimant is not entitled to a right sacroiliac joint injection?

Due to COVID-19 concerns, the parties were asked to appear via teleconference for the May 11, 2020, contested case hearing. Claimant did not call in for the May 11, 2020, contested case hearing. The contested case hearing was rescheduled and reconvened on July 6, 2020. Claimant did not call in for the hearing, and a 10-day letter was sent to Claimant requesting him to show good cause for his failure to appear. Claimant did not respond, and the record closed on July 27, 2020.

**PARTIES PRESENT**

Claimant failed to appear. MM, ombudsman, was available to assist Claimant had he called in. Insurance Carrier/Respondent (Insurance Carrier) appeared and was represented by KH, attorney. The hearing was held via teleconference due to the COVID-19 pandemic.

**EVIDENCE PRESENTED**

No witnesses testified.

The following exhibits were admitted into evidence:

Administrative Law Judge's Exhibit: ALJ-1.

Claimant's Exhibits: None.

Insurance Carrier's Exhibits: CR-A through CR-E.

## **DISCUSSION**

The evidence showed that Claimant sustained a compensable injury on (Date of Injury), while lifting a skid. The evidence also showed that Claimant had a previous right sacroiliac injection and reported relief for approximately three months. Claimant was examined by SB, M.D., on June 7, 2019, and complained of right buttocks pain. Claimant continued to complain of pain in the right buttocks during a follow-up examination, and Dr. B submitted another request for a right sacroiliac joint injection. In a notice of adverse determination dated July 8, 2019, the utilization review agent, AB, M.D., indicated the requested right sacroiliac injection was not medically necessary in accordance with the Official Disability Guidelines (ODG). Dr. B submitted a request for reconsideration, and a second utilization review agent, RL, M.D., submitted a denial dated September 3, 2019, which indicated the requested treatment was not medically necessary in accordance with the ODG. Due to the previous denials, Dr. B requested a review by an independent review organization (IRO). The IRO reviewer upheld the previous denials, and Claimant appealed by requesting a medical contested case hearing.

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 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 Texas Administrative Code (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, 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.

In order for Claimant to meet his burden, he had to present a qualified expert medical opinion with reference to evidence-based medicine to show the preponderance of the evidence-based medical evidence is contrary to the decision issued by the IRO. Such evidence-based medical evidence was lacking in this case. As such, insufficient evidence-based medical evidence existed to explain that the requested right sacroiliac injection was health care reasonably required for the compensable injury. Therefore, the preponderance of the evidence is not contrary to the decision of the IRO that Claimant is not entitled to the requested treatment.

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 Insurance Carrier admitted 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 insurance through Hartford Casualty Insurance Company, Insurance Carrier.
  - D. On (Date of Injury), Claimant sustained a compensable injury.
2. The Division sent a single document stating the true corporate name of Insurance Carrier and the name and street address of Insurance Carrier's registered agent for service with the 10-day letter to Claimant, at Claimant's address of record. That document was admitted into evidence as Insurance Carrier's Exhibit B.
3. Claimant failed to appear for the July 6, 2020, contested case hearing and did not respond in writing to the Division's letter offering him the opportunity to have the hearing rescheduled.
4. Claimant did not show good cause for failing to appear at the July 6, 2020, contested case hearing.
5. The right sacroiliac joint injection 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 Claimant is not entitled to a right sacroiliac joint injection.

## **DECISION**

The preponderance of the evidence is not contrary to the decision of the IRO that Claimant is not entitled to a right sacroiliac joint injection.

## **ORDER**

Insurance 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 Texas Labor Code §408.021.

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

**CT CORPORATION SYSTEM  
1999 BRYAN STREET, SUITE 900  
DALLAS, TEXAS 75201-3136**

Signed this 28<sup>th</sup> day of July, 2020.

Kara Squier  
Administrative Law Judge