

MEDICAL CONTESTED CASE HEARING 21013

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 sacral caudal #2 under fluoroscopy, CPT 62323 and 77003.

STATEMENT OF THE CASE

On December 16, 2021, Britt Clark, a Division ALJ, held a contested case hearing to decide the following disputed issue:

Is the preponderance of the evidence contrary to the opinion of the Independent Review Organization (IRO) reviewer that Claimant is not entitled to sacral caudal #2 under fluoroscopy, CPT 62323 and 77003?

PERSONS PRESENT

Claimant appeared and was assisted by CT, ombudsman. Insurance Carrier appeared and was represented by BL, attorney. DA observed the proceeding with the Office of Injured Employee Counsel.

EVIDENCE PRESENTED

The following witnesses testified:

For Claimant: Claimant.

For Insurance Carrier: None.

The following exhibits were admitted into evidence: ALJ's Exhibit: ALJ-1.

Claimant's Exhibits: C-1 through C-4.

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

DISCUSSION

Claimant sustained a compensable injury (Date of Injury). This case involved a dispute as to the medical necessity of a sacral caudal injection. Claimant testified as to his continued symptoms from his work injury and the relief he received from prior injections. Claimant had an injection on May 18, 2021, which was complicated with a hospital trip due to concern for a heart rate

issue, though Claimant stated he did obtain some diminished symptoms due to this injection. Dr. CD, Claimant's treating doctor, requested a repeat injection, which was denied. Claimant contested the opinion of the IRO with the opinion of Dr. D and his medical records. Insurance Carrier relied on the IRO determination and the medical opinions obtained during the preauthorization process.

The requested treatment was initially denied because the May 18, 2021, injection was requested less than one month after the initial injection, and the reviewer did not believe sufficient time had passed to certify the treatment as medically necessary. On reconsideration, a reviewer stated that there was not progressive neurological deficit or ongoing symptoms to support a repeated injection. The IRO reviewer noted that there was 75% improvement after the May 18, 2021, caudal block, but concluded that there were no new or worsening symptoms to consider a repeat injection. These three reviewers cited the Official Disability Guidelines (ODG).

Dr. D stated in his records that Claimant has continued radicular symptoms down the left leg, left lateral calf, and to the left dorsal aspect. Dr. D opined that Claimant is working with a home exercise program and aquatic training, and the lack of a repeat injection is impeding the process.

The Division has adopted treatment guidelines for medical providers to provide treatment in accordance with the current edition of the ODG. The low back section of the ODG provides criteria for low back injections in evaluating medical necessity. The ODG states that a request for the procedure in a patient with chronic radiculopathy requires additional documentation of recent symptom worsening associated with deterioration of neurologic state. The ODG also notes that repeat therapeutic injections are not routinely recommended unless there is evidence of an acute pain exacerbation after a symptom-free period.

After review of the evidence, it is determined that Claimant failed to meet his burden of proof. While Dr. D notes that Claimant has continued radicular symptoms that have impeded his physical training and that another block would improve his condition, there was a lack of evidence of symptom worsening or deterioration of his neurologic state. Dr. D did not cite the ODG or other evidence-based medical studies in his request for this treatment. Furthermore, the records he provided were insufficient to show that ODG criteria for the treatment requested was met. The IRO reviewer concluded that there was a lack of sufficient clinical findings to support repeat injections, and this opinion was more consistent with the ODG.

Claimant was a very credible witness regarding his pain and physical limitations. However, the evidence presented at the hearing cannot be construed to constitute evidence-based medical evidence sufficient to overcome the decision of the IRO reviewer. As Claimant did not overcome the IRO decision by a preponderance of the evidence-based medical evidence, he has accordingly failed to meet his burden of proof.

The ALJ 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 insurance through Travelers Indemnity Company of Connecticut, Insurance Carrier.
 - D. On (Date of Injury), Claimant sustained a compensable injury.
2. Insurance Carrier delivered to Claimant a single document stating the true corporate name of Insurance Carrier, and the name and street address of Insurance Carrier's registered agent, which document was admitted into evidence as an Insurance Carrier's exhibit.
3. Sacral caudal #2 under fluoroscopy, CPT 62323 and 77003, 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 opinion of the IRO reviewer that Claimant is not entitled to sacral caudal #2 under fluoroscopy, CPT 62323 and 77003.

DECISION

Claimant is not entitled to sacral caudal #2 under fluoroscopy, CPT 62323 and 77003.

ORDER

Insurance 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 Texas Labor Code §408.021.

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

**CORPORATION SERVICE CO.
d/b/a CSC-LAWYERS INCORPORATING SERVICE CO.
211 EAST 7TH STREET, STE. 620
AUSTIN, TX 78701-3218**

Signed this 17th day of December, 2021.

Britt Clark
Administrative Law Judge