

MEDICAL CONTESTED CASE HEARING NO 22014

Decision

The claimant appealed the decision of the Independent Review Organization in Case Number (Number).

The hearing for this appeal was held on September 7, 2022, and the record closed on December 22, 2022. For the reasons discussed below, the administrative law judge decides:

The claimant did not timely dispute the decision of the Independent Review Organization.

The claimant is not entitled to left hip arthroscopy with labral debridement and possible repair (procedure code 29882), nerve block injection X 1 (procedure code 66450), and post-op DME purchase – crutches (procedure code E0114) for the compensable injury of (Date of Injury).

Issues

At the hearing¹, Judge Katie Kidd considered the following unresolved issues:

1. Did the claimant timely dispute the decision of the Independent Review Organization?²
2. Is the claimant entitled to left hip arthroscopy with labral debridement and possible repair (procedure code 29882), nerve block injection X 1 (procedure code 66450), and post-op DME purchase – crutches (procedure code E0114) for the compensable injury of (Date of Injury)?

Persons Present

At the prehearing conference, the claimant appeared and was assisted by LR, ombudsman. The insurance carrier appeared and was represented by DK, attorney.

¹ The prehearing conference was held on April 2, 2022.

² Although not listed on the set notice, this issue was added at the prehearing conference. Additionally, the Judge finds good cause to add the issue because it is subsumed in the entitlement issue.

At the hearing, the claimant did not appear. Ms. R appeared to assist the claimant had he attended the hearing. The insurance carrier appeared and was again represented by Mr. K.

Evidence Presented

The judge admitted the following exhibits into evidence:

Judge's Exhibits:	ALJ-1 through ALJ-3
Claimant's Exhibits:	None
Insurance Carrier's Exhibits:	CR-A through CR-G

Discussion

Although properly notified, the claimant did not appear for the hearing. The Division of Workers' Compensation sent a 10-day letter to the claimant. This letter explained that the hearing had been held, but that the claimant could request a new hearing, and what would happen if a new hearing was not requested. The Division did not receive a written response to the letter. The record closed on December 22, 2022.

Timely dispute

The Independent Review Organization's decision was sent to the parties on September 10, 2021. The claimant's address listed on the decision was (Address). However, the claimant's address is (Address).

Despite the address being incomplete, the claimant received the Independent Review Organization's decision. According to a *Division Dispute Resolution Information System* note, the claimant called the Division on September 16, 2021. (See CR-B) According to the system note:

[The claimant] called to inquire about a letter received, IRO. [The claimant] stated the decision was upheld. Referred [the claimant] to his [doctor] for further assistance. ** I placed a call back to [the claimant]. Went straight to voicemail to inform him that upheld meant that nothing changed, and if he does not agree, he can appeal the decision by submitting DWC049 Form.**

Entitlement to disputed treatment

The claimant has the burden of proof to show he is entitled to the disputed treatment. Because the claimant did not appear and present evidence, he did not meet this burden. The claimant is not entitled to the disputed services.

The judge considered all the evidence admitted and based their findings of fact and conclusions of law on the evidence, even if the judge did not specifically discuss all the evidence.

Findings of Fact

1. The party present stipulated to the following facts:
 - A. Venue is proper in the (City) field office of the Division of Workers' Compensation.
 - B. On (Date of Injury), the claimant was the employee of (Employer), who had workers' compensation insurance through self-insurance, administered by TPS Joint Self Insurance Funds.
 - C. On (Date of Injury), the claimant sustained a compensable injury in the form of a lumbar paravertebral myofascial strain, status-post lumbar laminectomy times two, status-post incision and drainage of an injection wound, post-laminectomy syndrome of the lumbar spine, left hip labral tear, and a left acetabular labrum tear.
 - D. Based on a decision dated March 28, 2022, the compensable injury of (Date of Injury), does not extend to or include HNPs at L4-5 or L5-S1, bilateral hip osteoarthritis, anxiety, or depression.
2. The Division sent to the claimant a 10-day letter with a document stating the true corporate name of the insurance carrier, the name of the insurance carrier's registered agent, and the registered agent's street address, which was admitted into evidence.
3. The claimant did not appear at the hearing on September 7, 2022, and did not respond to the Division's 10-day letter.
4. The claimant did not have good cause for failing to appear at the hearing.
5. The Independent Review Organization's decision was sent to the parties on

September 10, 2021.

6. The claimant called the Division on September 16, 2021, to obtain information about the letter he received from the Independent Review Organization.
7. On March 18, 2022, the claimant filed an appeal of the Independent Review Organization's decision with the Division. The appeal was not filed within twenty days from the date the Independent Review Organization decision was sent to the parties.
8. The decision of the Independent Review Organization became final because the Division did not timely receive the claimant's request for appeal.
9. The preponderance of the evidence-based medical evidence is not contrary to the decision of the Independent Review Organization that the claimant is not entitled to left hip arthroscopy with labral debridement and possible repair (procedure code 29882), nerve block injection X 1 (procedure code 66450), and post-op DME purchase – crutches (procedure code E0114) 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 claimant did not timely dispute the decision of the Independent Review Organization.
4. The claimant is not entitled to left hip arthroscopy with labral debridement and possible repair (procedure code 29882), nerve block injection X 1 (procedure code 66450), and post-op DME purchase – crutches (procedure code E0114) for the compensable injury of (Date of Injury).

Order

The insurance carrier is not liable for the benefits in dispute in this hearing. The claimant remains entitled to medical benefits for the compensable injury in accordance with Texas Labor Code Section 408.021.

The true corporate name of the insurance carrier is **(SELF-INSURED)**. The name and address of its registered agent for service of process is:

(NAME)
(SELF-INSURED)
(ADDRESS)
(CITY, STATE ZIPCODE)

Signed on December 22, 2022.

Katie Kidd
Administrative Law Judge