

MEDICAL CONTESTED CASE HEARING NO 23002

Decision

For the reasons discussed, the administrative law judge determines that:

The preponderance of the evidence is not contrary to the Independent Review Organization's determination that the claimant is not entitled to left knee arthroscopy with medial or lateral meniscectomy for the compensable injury of (Date of Injury).

Statement of the Case

Judge Britt Clark held a hearing on March 21, 2023, to decide the following:

Is the preponderance of the evidence contrary to the Independent Review Organization's determination that the claimant is not entitled to left knee arthroscopy with medial or lateral meniscectomy for the compensable injury of (Date of Injury)?

Persons Present

The claimant appeared and was assisted by CJ, ombudsman. The insurance carrier appeared and was represented by TH, attorney.

Evidence Presented

The following witnesses testified:

For the claimant: The claimant

For the insurance carrier: None

The judge admitted the following exhibits into evidence:

Judge's Exhibit: ALJ-1

Claimant's Exhibits: C-1 through C-8

Insurance Carrier's Exhibits: CR-A through CR-F

The claimant affirmed there were 35 pages of Claimant's Exhibits. The insurance carrier affirmed there were 20 pages of Insurance Carrier's Exhibits.

Discussion

This case involves a dispute of the independent review organization's determination that the claimant is not entitled to the knee surgery at issue. The insurance carrier agreed that there was no relevant extent-of-injury issue on this case.

In this case, the claimant's treating provider proposed the surgery. The case was denied at initial preauthorization and again on reconsideration. The preauthorization reviewer stated that the records did not show reproducible locking or catching or detailed failure of non-operative measures to include physical therapy. The reconsideration reviewer stated that there was a lack of locking or clicking in the medical records and agreed with the preauthorization reviewer.

The claimant disagreed with the denials on this case and requested an Independent Review Organization review. In the report dated October 12, 2022, the reviewer stated that there were no specific mechanical symptoms or other symptoms such as reproducible catching or failure of formal physical therapy. The reviewer agreed that the requested surgery did not meet the requirements of the Official Disability Guidelines.

The claimant testified that he had failed conservative treatment and stated that his doctors have continued to recommend surgery. He provided a March 8, 2023, record from his surgeon stating that the claimant requires an arthroscopic meniscectomy, noting that the claimant had failed over a year of conservative management. The claimant provided a February 16, 2023, examination by Dr. JE, the designated doctor on the issues of maximum medical improvement and impairment rating. Dr. E cited a peer review report from Dr. JW, peer reviewer, who believed that the surgery was medically necessary under the Official Disability Guidelines.

After review of the evidence, it is determined that the claimant failed to meet his burden of proof. While the claimant provided more recent evidence with clinical findings that support the need for surgery, all of the evidence relied on by the claimant is after the opinion of the Independent Review Organization's determination. These records contain additional clinical findings and x-rays. Similarly, the designated doctor's opinion shows worsening findings as well. However, these new records do not show that the

preponderance of the evidence was contrary to the Independent Review Organization's determination at the time it was made.

The claimant did not meet his burden of proof to show that the determination of the Independent Review Organization's reviewer was contrary to the preponderance of the evidence.

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 parties stipulated to the following facts:
 - A. The (City) field office is the proper location for the hearing.
 - B. On (Date of Injury), the claimant was an employee of (Employer), who provided workers compensation insurance through Ace American Insurance Company.
 - C. On (Date of Injury), the claimant sustained a compensable injury that extends to and includes at least left knee meniscus tear.
2. The insurance carrier delivered to the claimant 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 preponderance of the evidence was not contrary to the Independent Review Organization reviewer's October 12, 2022, finding that the request for left knee arthroscopy with medial or lateral meniscectomy was not medically necessary pursuant to the Official Disability Guidelines.

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 Independent Review Organization's determination that the claimant is not entitled to left knee arthroscopy with medial or lateral meniscectomy for the compensable injury of (Date of Injury).

Order

The insurance carrier is not liable for the benefits at issue in this decision. The claimant remains entitled to medical benefits for the compensable injury.

The true corporate name of the insurance carrier is **ACE AMERICAN 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, TX 75201-3136**

Signed on March 22, 2023.

Britt Clark
Administrative Law Judge