

**MEDICAL CONTESTED CASE HEARING NO 23003**

**Decision**

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

The claimant is not entitled to outpatient right hip arthroscopy with labral repair, femoroplasty, and hip orthosis for the compensable injury of (Date of Injury).

**Statement of the Case**

Judge Warren E. Hancock, Jr. held a hearing on March 23, 2023, to decide the following:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization that the claimant is not entitled to outpatient right hip arthroplasty with labral repair, femoroplasty, and hip orthosis for the compensable injury of (Date of Injury).

**Persons Present**

The claimant appeared and was assisted by EM, ombudsman. The insurance carrier appeared and was represented by JF, 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 Exhibits: ALJ-1 and ALJ-2

Claimant's Exhibits: C-1 through C-9

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

The claimant affirmed there were 109 pages of Claimant's Exhibits. The insurance carrier affirmed there were 39 pages of Insurance Carrier's Exhibits.

### **Discussion**

The claimant is a (age)-year-old culinary arts teacher for Employer. She testified that on (Date of Injury), she tripped on a pipe on the floor of the agricultural building and fell on her right side, injuring her right shoulder and hip. The claimant is treating with JZ, M.D., an orthopedic specialist. She has had conservative treatment including physical therapy, injections, and medications. Dr. Z requested preauthorization for surgery for outpatient right hip arthroscopy with labral repair, femoroplasty, and hip orthosis.

The insurance carrier had utilization reviews done by CT, M.D., a board-certified orthopedic surgeon. He recommended denial of the requested surgery because the Official Disability Guidelines require a body mass index less than 30 for hip surgery, while Claimant's body mass index was 39.31. An appeal of the denial was considered by reconsideration reviewer, CR, M.D., a board-certified orthopedic surgeon, who wrote that the request for surgery was not supported by the Official Disability Guidelines because of the body mass index exceeding the guidelines for surgery, and lack of objective documentation of indications for the proposed hip surgery.

The claimant appealed the surgery denial to an Independent Review Organization which had the case reviewed by an orthopedic surgeon who upheld the denial of the requested surgery citing the body mass index exceeding the guidelines and lack of objective findings justifying surgery under the guidelines.

The claimant produced an unsigned and undated letter from Dr. Z which states that the claimant had exhausted conservative treatment and that a minimally invasive arthroscopic procedure was justified in this case. He stated that the claimant had been on a weight loss program and that her body mass index is now down to 35. However, that figure still exceeds the limit of 30 prescribed by the official disability guidelines. Dr. Z did not cite other evidence-based medical evidence to overcome the requirements set out in the Official Disability Guidelines. The claimant did not meet her burden of proof to overcome the decision of the Independent Review Organization in this case.

The judge considered all the evidence admitted and based his 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) which provided workers' compensation insurance through self-insurance.
  - C. On (Date of Injury), the claimant sustained a compensable injury that extends to and includes at least a right hip injury.
  - D. The Independent Review Organization determined that outpatient right hip arthroplasty with labral repair, femoroplasty, and hip orthosis is not health care reasonably required for the compensable injury of (Date of Injury).
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 is not contrary to the decision of the Independent Review Organization that outpatient right hip arthroplasty with labral repair, femoroplasty, and hip orthosis 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 claimant is not entitled to outpatient right hip arthroscopy with labral repair, femoroplasty, and hip orthosis 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 (**SELF-INSURED**), and the name and address of its registered agent for service of process is:

**(NAME)**  
**(ADDRESS)**  
**(CITY, STATE ZIPCODE)**

Signed on March 23, 2023.

Warren E. Hancock, Jr.  
Administrative Law Judge