

MEDICAL CONTESTED CASE HEARING NO 24005

Decision

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

The preponderance of the evidence is not contrary to the decision of the Independent Review Organization that the claimant is not entitled to left shoulder revision of the reverse total arthroplasty with one day inpatient stay for the compensable injury of (Date of Injury).

Statement of the Case

The claimant requested a hearing to appeal the decision of the Independent Review Organization. Judge Hsin-Wei Luang held a hearing on July 23, 2024, 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 left shoulder revision of the reverse total arthroplasty with 1 day inpatient stay for the compensable injury of (Date of Injury)? (Amended by agreement of the parties.)

Persons Present

The claimant appeared and was represented by KA, attorney. The insurance carrier appeared and was represented by JM, attorney.

Evidence Presented

The following witnesses testified:

For the claimant:	The claimant
	JH, M.D.
For the insurance carrier:	None

The judge admitted the following exhibits into evidence:

Judge's Exhibit:	ALJ-1
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Claimant's Exhibits: C-1 through C-14

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

The claimant affirmed there were 157 pages of Claimant's Exhibits. The insurance carrier affirmed there were 59 pages of Insurance Carrier's Exhibits.

Discussion

At the time of the injury event, the claimant worked as a school bus driver for the employer. He sustained a compensable injury on (Date of Injury), that included a left shoulder rotator cuff tear. He underwent a left reverse total shoulder arthroplasty (RTSA) on December 27, 2023. However, after the RTSA, the claimant experienced popping in his shoulder up to six times a day.

The claimant's orthopedic surgeon, JH, M.D., requested a left shoulder revision of the reverse total arthroplasty with one day inpatient stay. This request was denied by JG, M.D., per utilization review dated April 2, 2024. Dr. G stated that the claimant's left shoulder was mostly stable and there were no demonstrated maneuvers to provoke the shoulder subluxation.

Dr. G's denial was upheld by CR, M.D., in a utilization review dated April 22, 2024. Dr. R noted that, per the *Official Disability Guidelines*, shoulder arthroplasty was conditionally recommended after at least 6 months of conservative treatment. He also noted that there was no documentation of instability, fracture, or mechanical failure of implant, glenoid erosion from hemiarthroplasty, proximal humeral head migration, or infection.

The claimant then requested an Independent Review Organization (IRO) review. The IRO reviewer agreed with Dr. G and Dr. R and upheld the denial.

The claimant appealed the IRO decision. The claimant had the burden to show by a preponderance of evidence based medical evidence that he was entitled to the relief he was seeking.

To determine if treatment is medically necessary, Texas law requires the Division of Workers' Compensation to use treatment guidelines. These guidelines must be evidence-based, scientifically valid, and outcome-focused. Use of these guidelines ensures that an injured employee will receive reasonable and necessary health care. The

Division uses the current edition of the *Official Disability Guidelines*. If the *Official Disability Guidelines* does not address the requested treatment, then other guidelines or generally accepted standards of practice recognized in the medical community are used.

The insurance carrier asserted that the IRO reviewer's decision was correct. The claimant asserted that the IRO reviewer relied on the incorrect section of the *Official Disability Guidelines* in its denial of the left shoulder revision of the reverse total arthroplasty. He maintained that there was no section of the *Official Disability Guidelines* to cover the requested procedure. He also asserted that the IRO reviewer did not consider additional medical evidence from Dr. H before making its decision. The claimant relied on his testimony, the medical records in evidence, and the testimony of Dr. H to support his position of entitlement to the disputed treatment.

Dr. H testified and explained the difference between a reverse total arthroplasty and a revision of the reverse total arthroplasty. He also testified that he did not have an opportunity to submit additional medical evidence to the IRO reviewer. Dr. H stated he did not perform any provocative maneuvers to demonstrate the shoulder's ability to sublunate, and there was no imaging evidence of any subluxation. Dr. H opined that a left shoulder revision of the reverse total arthroplasty was nevertheless medically necessary for the claimant.

The judge reviewed the decision of the IRO reviewer and found the reviewer did not confuse left shoulder reverse arthroplasty with left shoulder revision of the reverse total arthroplasty. Under the section for reverse shoulder arthroplasty in the *Official Disability Guidelines*, there was a subsection discussing the revision procedure. The judge considered Dr. H's testimony and the medical records in evidence and found there was insufficient explanation through the use of evidence-based medical evidence as to how the claimant met the requirements of the *Official Disability Guidelines* to support the medical necessity for the requested left shoulder revision of the reverse total arthroplasty.

The claimant also did not establish the necessity of the requested left shoulder revision of the reverse total arthroplasty at issue through other evidence-based medical evidence. As such, insufficient evidence-based medical evidence existed to explain that the requested treatment was medically reasonable and necessary.

Therefore, the preponderance of the evidence is not contrary to the decision of the IRO

that the claimant is not entitled to left shoulder revision of the reverse total arthroplasty with one day inpatient stay for the compensable injury of (Date of Injury).

The judge considered all the evidence admitted and based her 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 the (Employer), which provided workers' compensation insurance as a self-insurer.
 - C. On (Date of Injury), the claimant sustained a compensable 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 Independent Review Organization determined that the left shoulder revision of the reverse total arthroplasty with one day inpatient stay was not medically necessary.
4. The preponderance of the evidence-based medicine is not contrary to the Independent Review Organization decision that a left shoulder revision of the reverse total arthroplasty with one day inpatient stay was not healthcare 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 Independent Review Organization that the claimant is not entitled to left shoulder revision of the reverse total arthroplasty with one day inpatient stay for the compensable injury of (Date of Injury).

Order

The insurance carrier is not liable for the benefits at issue 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)**, and the name and address of its registered agent for service of process is:

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

Signed on July 29, 2024.

Hsin-Wei Luang
Administrative Law Judge