

MEDICAL CONTESTED CASE HEARING NO 24006

Decision

For the reasons discussed below, the administrative law judge decides:

The claimant is not entitled to anterior cervical discectomy with arthrodesis and instrumentation to C3-C6 for the compensable injury of (Date of Injury).

Statement of the Case

The claimant appealed the decision of the Independent Review Organization in Case Number 392563. Judge Francisca N. Okonkwo held a hearing for this appeal on July 22, 2024, with the record closing on August 12, 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 anterior cervical discectomy with arthrodesis and instrumentation to C3-C6 for the compensable injury of (Date of Injury)?

Persons Present

The claimant did not appear for the hearing.
The insurance carrier appeared and was represented by TW, attorney.

Evidence Presented

The following witnesses testified:

For the claimant:	None
For the insurance carrier:	None

The judge admitted the following exhibits into evidence:

Judge's Exhibits:	ALJ-1 through ALJ-5
Claimant's Exhibits:	None
Insurance Carrier's Exhibits:	CR-A through CR-G

The insurance carrier affirmed there were 43 pages of Insurance Carrier's Exhibits. Judge's Exhibit ALJ-5, the Division 10-day letter, was admitted after the hearing.

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 although the hearing had been held, 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 August 12, 2024.

The evidence showed that the claimant, a school bus driver, was injured at work on (Date of Injury), when he was involved in a head-on collision motor vehicle accident.

The diagnoses were cervical herniated disc with myelopathy at C4-C5 and cervical herniated disc with myelopathy at C5-C6.

Per a utilization review adverse determination letter dated March 14, 2024, by JH, M.D., the request for anterior cervical discectomy with arthrodesis and instrumentation to C3-C6 was denied. The rationale for the denial was: (1) the cervical MRI submitted for review had missing pages; (2) the Official Disability Guidelines do not recommend fusion of more than three levels; (3) there is no documentation of a psychological screening documenting the presence or absence of confounding issues, as required by the Official Disability Guidelines. For these reasons, it was determined that the medical necessity had not been established for the request for anterior cervical discectomy with arthrodesis and instrumentation to C3-C6.

The claimant then requested an Independent Review Organization review of the denial. In the decision letter dated May 21, 2024, which was amended on May 22, 2024, the Independent Review Organization agreed with and upheld the insurance carrier's denial. The claimant filed this appeal of the Independent Review Organization decision.

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.

In this dispute, the claimant had the burden of showing by a preponderance of the medical evidence that the Independent Review Organization decision is wrong. The claimant did not appear for the hearing and presented no evidence in support of his position or evidence to address the reasons for the denial of treatment. Therefore, the preponderance of the evidence is not contrary to the decision of the Independent Review Organization that the claimant is not entitled to anterior cervical discectomy with arthrodesis and instrumentation to C3-C6 for the compensable injury of (Date of Injury).

The judge considered all the evidence admitted and based the 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. The (City) field office is the proper location for the hearing.
 - B. On (Date of Injury), the claimant was an employee of (Employer).
 - C. On (Date of Injury), the employer provided workers' compensation insurance as a self-insured entity.
 - D. The claimant sustained a compensable injury on (Date of Injury).
2. The Division sent a single document stating the true corporate name of the insurance carrier and the name and street address of the insurance carrier's registered agent for service with the 10-day letter to the claimant at his address of record. That document was admitted into evidence.
3. The claimant did not appear for the July 22, 2024, hearing and he did not have good cause for failing to appear.
4. The Independent Review Organization determined that the claimant is not entitled to anterior cervical discectomy with arthrodesis and instrumentation to C3-C6 for the compensable injury of (Date of Injury).

5. 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 anterior cervical discectomy with arthrodesis and instrumentation to C3-C6 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 anterior cervical discectomy with arthrodesis and instrumentation to C3-C6 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)**. The name and address of its registered agent for service of process is:

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

Signed on August 16, 2024.

Francisca N. Okonkwo
Administrative Law Judge