

MEDICAL CONTESTED CASE HEARING NO 24009

Decision

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

For the compensable injury of (Date of Injury), the claimant is not entitled to total knee arthroplasty, right knee; CAT, right knee; and Nice1 cold compression therapy (rent for 2 weeks).

Statement of the Case

The claimant requested a hearing to appeal the decision of the Independent Review Organization. Judge Kathryn Labovitz held a hearing on November 14, 2024, to decide the following:

For the compensable injury of (Date of Injury), is the claimant entitled to total knee arthroplasty, right knee; CAT, right knee; and Nice1 cold compression therapy (rent for 2 weeks)?

Persons Present

The claimant appeared and was assisted by TW, ombudsman. The insurance carrier appeared and was represented by LM, 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-4
Insurance Carrier’s Exhibits:	CR-A through CR-E

The claimant affirmed there were 59 pages of Claimant's Exhibits. The insurance carrier affirmed there were 39 pages of Insurance Carrier's Exhibits.

Discussion

The claimant sustained a compensable injury on (Date of Injury), that includes a right tibia fracture and dislocated right knee. The claimant was referred for treatment with Dr. MK, who recommended the disputed treatment. Preauthorization from the insurance carrier review agent was requested and denied.

The claimant then requested an Independent Review Organization (IRO) review of the denials. In the decision letter dated August 30, 2024, the IRO upheld the insurance carrier's denials. The claimant is now appealing the IRO decision.

To determine if treatment is medically necessary, Texas law requires the Division 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. (See Texas Labor Code Section 413.011(e) and 413.017(1).) 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 has the burden of showing by a preponderance of evidence based medical evidence that the IRO decision is wrong. The claimant relied on his testimony, the medical records in evidence, and the opinion of Dr. K to support his position of entitlement to the disputed treatment.

The claimant testified concerning the mechanism of injury and his course of treatment which included three surgeries, an injection, physical therapy, and the use of an AFO brace. He also described his continuing pain and limitations; however, 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* for the requested total knee arthroplasty. The claimant also did not establish the necessity of the requested total knee 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.

In summary, the evidence offered, including the opinion of Dr. K, does not provide a persuasive explanation using evidence-based medicine of how the disputed treatment is necessary. The *Official Disability Guidelines* do not support the necessity of the disputed 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 total knee arthroplasty, right knee; CAT, right knee; and Nice1 cold compression therapy (rent for 2 weeks).

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 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).
 - C. On (Date of Injury), the employer provided workers' compensation insurance with Chubb Indemnity Insurance Company.
 - D. On (Date of Injury), the claimant sustained a compensable injury that includes right tibia fracture and dislocated right knee.
 - E. On August 30, 2024, the Independent Review Organization determined the claimant should not have the requested treatment of total knee arthroplasty, right knee; CAT, right knee; and Nice1 cold compression therapy (rent for 2 weeks).
 - F. The claimant filed a Request to Schedule a Medical Contested Case Hearing to dispute the IRO decision on September 17, 2024.
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-based medical evidence is not contrary to the decision of the Independent Review Organization that total knee arthroplasty, right knee; CAT, right knee; and Nice1 cold compression therapy (rent for 2 weeks) is 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. For the compensable injury of (Date of Injury), the claimant is not entitled to total knee arthroplasty, right knee; CAT, right knee; and Nice1 cold compression therapy (rent for 2 weeks).

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 **CHUBB INDEMNITY INSURANCE COMPANY**, and the name and address of its registered agent for service of process is:

**C T CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS, TEXAS 75201-4284**

Signed on November 18, 2024.

Kathryn Labovitz
Administrative Law Judge