

MEDICAL CONTESTED CASE HEARING NO 25000

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 one purchase of ergonomic chair, one purchase of adjustable base bed, or one purchase of therapeutic hot tub for the compensable injury of (Date of Injury).

Statement of the Case

A contested case hearing was held on February 12, 2025, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that the claimant is not entitled to one purchase of ergonomic chair, one purchase of adjustable base bed, and one purchase of the therapeutic hot tub for the compensable injury of (Date of Injury)?

Persons Present

The claimant appeared and was assisted by NA, 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 Exhibit: ALJ-1

Claimant's Exhibits: C-1 through C-6

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

The claimant affirmed there were 138 pages of Claimant's Exhibits. The insurance carrier affirmed there were 60 pages of Insurance Carrier's Exhibits.

Discussion

At the time of the injury event, the claimant worked for the employer as a solderer on an assembly line. He sustained a compensable injury on (Date of Injury), when he leaned back on a chair, and the chair gave way from the base. He testified that he fell backwards, hit his right arm, and landed on the edge of the chair.

The parties stipulated the compensable injury extended to and included pain in thoracic spine, other intervertebral disc degeneration of lumbar region, intervertebral disc disorders with myelopathy of lumbar region, radiculopathy of lumbar region, low back pain, chronic pain syndrome, post laminectomy syndrome, spondylosis without myelopathy or radiculopathy of lumbosacral region, another spondylosis of thoracic region, and spondylosis without myelopathy or radiculopathy of thoracic region.

The claimant, through his doctor NK, M.D., requested on January 10, 2024, an ergonomic chair for work, a hot tub, and an adjustable bed. On March 12, 2024, JH, M.D., also stated that an ergonomic chair, therapeutic hot tub, and adjustable bed were medically necessary for treatment of the claimant's back pain. Also in evidence were letters from AS, M.D., and RJ, M.D., regarding requests for the equipment at issue in this hearing.

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 had the burden to show by a preponderance of evidence- based medical evidence that the Independent Review Organization's (IRO) decision was wrong. The claimant relied on his testimony and the medical records in evidence to support his position of entitlement to the disputed items.

The IRO report detailed relevant evaluations and determinations made by other medical professionals. Regarding the ergonomic work chair, the IRO report states that it was unclear if the ergonomic chair was requested for home use and that ergonomic exercise should be tried first. No extenuating factors were identified to support the medical necessity of the request that would override the previous determination. Regarding the hot tub, the IRO report stated that a hot tub would be recommended if the patient was homebound, but there was no evidence that claimant was homebound. Regarding the adjustable bed, the IRO report stated that there was no documentation of radiating leg pain, weakness, swelling, shortness of breath, or difficulty with sleeping, and no extenuating factors were identified to support the medical necessity of the request.

The IRO further noted that, while certain ergonomic devices such as an adjustable hospital bed, various seating arrangements, or hot tub may be indicated for patients with significant mobility issues to the point they were homebound with substantial ADL impairments, there was no documentation that the claimant had such functional deficits to the point that such requested equipment was medically necessary.

The claimant asserted that the IRO decision was wrong because one of the utilization reviewers, OK, M.D., did not state his full credentials, the reviewers did not have all his medical records before performing their reviews, and the reviewers used the incorrect ODG sections.

The evidence showed that Dr. K disclosed his credentials in his utilization review. The evidence also showed that each utilization reviewer made two attempts to obtain the claimant's medical records, and the IRO reviewed the reviewers' decisions based on the medical records and documentation submitted by the parties. The claimant's assertion that the utilization reviewers and the IRO used the incorrect ODG sections was not persuasive.

A decision issued by an IRO is not considered an agency decision, and neither the Department nor the Division are considered parties to an appeal. In a contested case hearing, the party appealing the IRO decision has the burden of overcoming the decision issued by an IRO by a preponderance of evidence-based medical evidence.

The judge reviewed the evidence submitted. The claimant did not establish through evidence-based medical evidence that the requested ergonomic chair, hot tub, or adjustable bed were necessary. The preponderance of the evidence-based medicine

was not contrary to the IRO decision.

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 (Employer).
 - C. On (Date of Injury), the employer provided workers' compensation insurance with Ace American Insurance Company.
 - D. On (Date of Injury), the claimant sustained a compensable injury that extends to and includes pain in thoracic spine, other intervertebral disc degeneration of lumbar region, intervertebral disc disorders with myelopathy of lumbar region, radiculopathy of lumbar region, low back pain, chronic pain syndrome, post laminectomy syndrome, spondylosis without myelopathy or radiculopathy of lumbosacral region, other spondylosis of thoracic region, and spondylosis without myelopathy or radiculopathy of thoracic region.
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 IRO determined that one purchase of ergonomic chair, one purchase of adjustable base bed, and one purchase of therapeutic hot tub were not medically necessary.
4. The preponderance of the evidence-based medicine is not contrary to the IRO decision that the one purchase of ergonomic chair, one purchase of adjustable base bed, and one purchase of therapeutic hot tub were 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 one purchase of ergonomic chair, one purchase of adjustable base bed, or one purchase of therapeutic hot tub 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 compensable injury in accordance with Texas Labor Code Section 408.021.

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, TEXAS 75201-3136**

Signed on February 13, 2025.

Hsin-Wei Luang
Administrative Law Judge