

## **MEDICAL CONTESTED CASE HEARING NO 25003**

### **Decision**

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

The claimant is entitled to C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT.

### **Statement of the Case**

The claimant's orthopedic surgeon, Dr. HT, appealed the decision of the Independent Review Organization in Case Number (Number). Judge Cindy Galvan held a hearing for this appeal on February 10, 2025, with the record closing on February 21, 2025, 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 C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, or ISTAT? (The issue was corrected by the judge after obtaining an agreement from the parties.)

The record was re-opened after the hearing to obtain an agreement from the parties regarding a correction to the issue statement.

### **Persons Present**

The claimant appeared and was assisted by RH, ombudsman. The provider who requested the hearing, Dr. HT, appeared on his own behalf and as a witness for the claimant. The insurance carrier appeared and was represented by JL, attorney. JV observed the hearing.

### **Evidence Presented**

The following witnesses testified:

For the claimant:	The claimant and Dr. HT
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-9 Insurance
Carrier's Exhibits:	CR-A through CR-D

The claimant affirmed there were 45 pages of Claimant's Exhibits. The insurance carrier affirmed there were 14 pages of Insurance Carrier's Exhibits.

### **Discussion**

The claimant testified that he was injured at work on (Date of Injury), when he was working on a pump and stood up, hitting his head with great force on a pipe and injuring his neck. After hitting his head, the claimant stumbled and fell, fracturing the upper and lower end of his left fibula when he fell. The claimant explained that as a result of his work injury, he has undergone multiple surgeries to his left ankle/fibula and neck, including a multi-level C4-C6 anterior cervical discectomy and fusion. The claimant is now seeking approval for C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT.

Per utilization review adverse determination letter dated July 26, 2024, by KT, M.D., a request for C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT was denied. The rationale for the denial was that there was no current cervical imaging report submitted for review.

For that reason, it was determined that medical necessity had not been established for the requested C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT.

Per an additional utilization review adverse determination letter dated August 7, 2024, by MH, M.D., the request for C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT was denied. The rationale for the denial was that physical examination of the cervical spine revealed normal strength, and the MRI of the cervical spine revealed no significant stenosis or cord compression at C6-C7. For those reasons, it was determined that medical necessity had not been established for the requested C6-C7 anterior cervical discectomy and fusion, pre-op

labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT.

The claimant's orthopedic surgeon, Dr. HT, requested an Independent Review Organization review of the denials. In a decision letter dated October 8, 2024, the first Independent Review Organization agreed with and upheld the denial stating that an MRI of the cervical spine dated May 31, 2024, revealed post anterior cervical discectomy and fusion changes at C4-C5 and mild disc space narrowing at C3-C4 and C6-C7 without significant stenosis. Because the submitted imaging report did not demonstrate significant spinal cord or nerve root impingement at C6-C7, and no new information was provided which would overturn the previous denial, the denial was upheld.

In a subsequent decision letter dated October 14, 2024, the second Independent Review Organization agreed with and upheld the denial indicating that upon review of the May 2024 cervical MRI report, no significant stenosis was present at C6-C7 which would correlate with the claimant's reported symptoms or physical exam findings.

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.

Dr. T's medical records were in evidence, and he testified at the hearing. Dr. T reported that post C4-C6 anterior cervical discectomy and fusion, the claimant presented with C6-C7 disc herniation on the left side with moderate central stenosis impinging on the exiting ventral roots of C7 bilaterally. He reported that conservative treatment via pain management and medication failed to improve the claimant's condition.

Dr. T explained that the claimant had several cervical MRIs completed during the course of his treatment which were read by radiologists who were not specialists in musculoskeletal radiology. Dr. T explained that the radiologists who read the prior MRIs as well as the May 2024 MRI were not specialists and thus did not interpret the MRI films in the manner that a musculoskeletal radiologist would.

An MRI addendum report dated August 8, 2023, by musculoskeletal radiologist, Dr. SJ of

(Provider), reported that at the C6-C7 level there was moderate central canal stenosis with an AP diameter of the canal measuring 7 mm. In a subsequent MRI addendum, dated September 4, 2024, Dr. J opined that the MRI showed C6-C7 bulging with superimposed central disc extrusion measuring 2 mm.

Further, Dr. J noted that at the C6-C7 level, "a disc bulge osteoid complex is noted with a superimposed central disc extrusion measuring 2 mm in AP dimension, which results in moderate central canal stenosis. Bilateral uncovertebral hypertrophy contributes to moderate foraminal stenosis bilaterally." (C-5, page 1).

Dr. T explained that based on the claimant's exam findings and MRI results, evidence based medicine supports the procedure in dispute. Dr. T stated that the *Official Disability Guidelines* also support the procedure in dispute. Based on the persuasive medical evidence presented indicating that the imaging studies did show stenosis at C6-C7, which supported the claimant's symptoms and exam findings, the claimant has shown that the proposed care he is seeking is consistent with the *Official Disability Guidelines*.

The evidence reveals that the Independent Review Organizations' determinations that the requested treatment was not medically necessary was based on incomplete medical documentation.

Therefore, the preponderance of the evidence is contrary to the decisions of the Independent Review Organizations that the claimant is not entitled to C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT 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 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 Indemnity Insurance Company of North America.
  - D. The claimant sustained a compensable injury on (Date of Injury), in the form of fracture of upper and lower end of left fibula, sprain of left ankle, contusion of head, cervical strain, and intervertebral disc disorder C4-C5 and C5-C6.
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 physicians determined that the claimant is not entitled to C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT.
  4. The preponderance of the evidence-based medical evidence is contrary to the decisions of the Independent Review Organizations that the claimant is not entitled to C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT.
  5. C6-C7 anterior cervical discectomy and fusion and pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT are 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 entitled to C6-C7 anterior cervical discectomy and fusion, pre-op labs; CBC, BMP, PT, PTT, MSSA, MRSA, type & screen, and ISTAT.

**Order**

The insurance carrier is ordered to pay benefits pursuant to this decision. The insurance carrier shall pay any accrued but unpaid income benefits in a lump sum with interest as provided by law.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA**, 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**

Signed on February 25, 2025.

Cindy Galvan  
Administrative Law Judge