

MEDICAL CONTESTED CASE HEARING NO. 14048

**DECISION AND ORDER**

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and the Rules of the Texas Department of Insurance, Division of Workers' Compensation. For the reasons discussed herein, the Hearing Officer determines that Claimant failed to prove that the preponderance of evidence is contrary to the IRO opinion that surgical procedure of a laminectomy at L5 with discectomy at L5-S1 is not health care reasonably required for the compensable injury of (Date of Injury).

**STATEMENT OF THE CASE**

A prehearing for this medical contested case hearing was held on November 20, 2013. No agreement was reached and on January 30, 2014, Phillip Brown, a Division Hearing Officer, opened a spinal medical contested case hearing that was closed on February 21, 2014, after Claimant failed to respond to a 10-day letter, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the IRO that Claimant is not entitled to a surgical procedure of a laminectomy at L5 with discectomy at L5-S1 is not health care reasonably required for the compensable injury of (Date of Injury)?

**PARTIES PRESENT**

Claimant failed to appear for the medical contested case hearing and did not respond to the Division's 10-day letter. Carrier appeared and was represented by PP, attorney. Also present was RB, interpreter.

**EVIDENCE PRESENTED**

The following witnesses testified:

For the Petitioner/Claimant: None

For the Carrier: None

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits: HO-1 through HO-3

Claimant's Exhibits; C-1 through C-5

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

## **DISCUSSION**

Claimant sustained a compensable injury, which includes his low back, on (Date of Injury). Claimant's surgeon, Dr. MK, requested to perform a laminectomy at L5 with discectomy at L5-S1. The IRO reviewed the case and determined that such procedures were not warranted or indicated under the Official Disability Guidelines. Claimant disagreed and brought this request for a spinal surgery medical contested case hearing.

Claimant failed to produce any evidence that was contrary to the IRO; therefore, he did not meet his burden of proof to overcome the IRO opinion.

The Hearing Officer considered all of the evidence admitted. The Findings of Fact and Conclusions of Law are based on an assessment of all the evidence whether or not the evidence is specifically discussed in this Decision and Order.

## **FINDINGS OF FACT**

1. Carrier admitted to the following facts:
  - A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
  - B. On (Date of Injury), Claimant was the employee of (Employer), Employer.
  - C. On (Date of Injury), Employer provided workers' compensation insurance through Texas Mutual Insurance Company, Carrier.
  - D. Claimant sustained a compensable spinal injury on (Date of Injury).
  - E. The Independent Review Organization determined that Claimant should not have spinal surgery.
2. The Division sent a single document stating the true corporate name of Carrier and the name and street address of Carrier's registered agent for service with the 10-day letter to the Claimant at Claimant's address of record. The document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. Claimant failed to produce any evidence that was contrary to the IRO opinion that a surgical procedure of a laminectomy at L5 with discectomy at L5-S1 is not 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 preponderance of the evidence is not contrary to the decision of the IRO that a surgical procedure of a laminectomy at L5 with discectomy at L5-S1 is not health care reasonably required for the compensable injury of (Date of Injury).

## DECISION

The preponderance of the evidence is not contrary to the decision of the IRO that a surgical procedure of a laminectomy at L5 with discectomy at L5-S1 is not health care reasonably required for the compensable injury of (Date of Injury).

## ORDER

Carrier is not liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY**, and the name and address of its registered agent for service of process is:

**RICHARD J. GERGASKO, PRESIDENT  
6210 EAST HIGHWAY 290  
AUSTIN, TEXAS 78723**

Signed this 21st day of February, 2014.

Phillip Brown  
Hearing Officer