

MEDICAL CONTESTED CASE HEARING NO 23004

Decision

The claimant appealed the decision of the Independent Review Organization in Case Number (IRO Case Number). The hearing for this appeal was held on March 23, 2023, with the record closing on March 23, 2023. For the reasons discussed below, the administrative law judge determines that:

The claimant is not entitled to right L3-4 transforaminal injection with conscious sedation for the compensable injury of (Date of Injury).

Statement of the Case

Judge Warren E. Hancock, Jr. held the hearing 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 right L3-4 transforaminal injection with conscious sedation for the compensable injury of (Date of Injury)?

Persons Present

The claimant appeared and was assisted by EM, ombudsman. The insurance carrier appeared and was represented by BW, 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-7

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

The claimant affirmed there were 131 pages of Claimant's Exhibits. The insurance carrier affirmed there were 19 pages of Insurance Carrier's Exhibits.

Discussion

The claimant is a (age)-year-old former sales associate for the employer. She testified that on (Date of Injury), she was placing a folding chair in the corner after a presentation and, when she straightened up, she felt a stabbing pain in her low back. The claimant was first treated conservatively with a chiropractor and had two ESI injections and a rhizotomy. The claimant then underwent surgery at Texas Back Institute for a laminectomy, and later on September 14, 2015, a fusion at L4-5. The claimant had a recurrence of low back pain and was referred to RB, M.D., at Texas Back Institute. Dr. B saw the claimant initially on October 13, 2022, and proposed a right L3-4 transforaminal injection with conscious sedation for treatment of the compensable injury. It was noted that the claimant clinically has low back pain with radiation to the right leg. The goal of the epidural steroid injection was to confirm that the L3-4 level is symptomatic and a significant pain generator for the claimant, and also to be therapeutic to try to provide significant pain relief. This treatment was denied by the insurance carrier's utilization reviewers, and the denial was upheld by the Independent Review Organization on December 2, 2022.

The Independent Review Organization reviewer was an orthopedic surgeon. He noted that a CT myelogram of the lumbar spine on August 17, 2022, does not demonstrate any evidence of nerve root impingement at L3-4. In addition, an electromyogram of the lower extremities on August 25, 2022, demonstrates a chronic inactive right LS radiculopathy without evidence of a right L4 radiculopathy. The reviewer also noted that conscious sedation would not be warranted absent documentation of severe anxiety issues.

Dr. B wrote a "letter of medical necessity" on October 13, 2022, in which he stated that the CT myelogram shows a solid fusion at L4-5, and an hourglass deformity with disc herniation and ligamentum flavum hypertrophy at L3-4, which indicates nerve compression at the L3-4 level. Dr. B pointed out that the claimant has weakness of the

anterior tibialis which would correlate with the L4 nerve root, and with L3-4 lateral recess stenosis and justifies the requested treatment.

The report of the CT myelogram on August 17, 2022, does mention central canal narrowing and bilateral subarticular lateral recess narrowing, but does not identify nerve root impingement. The electromyographic findings do not support L4 nerve impingement. The preponderance of the evidence supports the determinations of the insurance carrier's utilization reviewers and the Independent Review Organization reviewer that the requested injection is not justified under evidence-based medical evidence as discussed in the Official Disability Guidelines.

The judge considered all the evidence admitted and based his 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), which provided workers' compensation insurance coverage through The Travelers Indemnity Company of Connecticut.
 - C. On (Date of Injury), the claimant sustained a compensable injury that extends to and includes at least a low back injury, a disc herniation at L4-5, and post laminectomy syndrome.
 - D. No extent of injury issue is presented in this case at this time.
 - E. The Independent Review Organization determined that right L3-4 transforaminal injection with conscious sedation is not health care reasonably required for the compensable injury of (Date of Injury).
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 is not contrary to the decision of the Independent Review Organization that right L3-4 transforaminal injection with conscious sedation 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. The Venue is proper in the (City) field office.
3. The claimant is not entitled to right L3-4 transforaminal injection with conscious sedation 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 **THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT**, and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY
D/B/A CSC-LAWYERS INCORPORATING SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218**

Signed on March 27, 2023.

Warren E. Hancock, Jr.
Administrative Law Judge