

MEDICAL CONTESTED CASE HEARING NO 25011

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 C4-C5 ACDF (22551, 22552, 22845, 22853X2, 20939).

The claimant did not timely appeal the decision of the Independent Review Organization.

Statement of the Case

The claimant requested a hearing to appeal the decision of the Independent Review Organization. Judge Kathryn Labovitz held hearings on July 14, 2025, and August 20, 2025, with the record closing on September 10, 2025, to decide the following:

1. For the compensable injury of (Date of Injury), is the claimant entitled to C4-C5 ACDF (22551, 22552, 22845, 22853X2, 20939)?
2. Did the claimant timely appeal the decision of the Independent Review Organization? (This issue was added for good cause.)

Persons Present

At the hearing on July 14, 2025, the claimant appeared. The insurance carrier did not appear. MS was the interpreter. JM was an observer.

At the hearing on August 20, 2025, the claimant did not appear. The insurance carrier appeared and was represented by TH, attorney.

Evidence Presented

No witnesses testified.

The judge admitted the following exhibits into evidence:

Judge's Exhibits: ALJ-1 through ALJ-3

Claimant's Exhibits: None

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

The insurance carrier affirmed there were 118 pages of Insurance Carrier's Exhibits.

Discussion

Although properly notified, the claimant did not appear for the hearing on August 20, 2025. The Division of Workers' Compensation sent a 10-day letter to the claimant. This letter explained that although the hearing had been held, the claimant could request a new hearing, and what would happen if a new hearing was not requested. The Division did not receive a response to the letter. The record closed on September 10, 2025.

On (Date of Injury), the claimant sustained a compensable injury that extends to and includes head contusion without loss of consciousness, cervical sprain/strain, and nondisplaced transverse fracture of the sternum. The claimant treated with Dr. JR, who recommended the disputed treatment. Preauthorization from the insurance carrier's utilization review agent was requested and denied.

The claimant then requested an Independent Review Organization (IRO) review of the denials. In the decision letter dated May 12, 2025, the IRO upheld the insurance carrier's denials. The claimant appealed the IRO decision.

28 Texas Administrative Code Section 133.308(s)(1)(A) provides that the written appeal of an IRO decision must be filed with the Division's Chief Clerk of Proceedings no later than the later of the 20th day after the effective date of this section or 20 days after the IRO decision is sent to the appealing party and must be filed in the form and manner required by the Division.

In this case, the IRO decision was issued and sent to the parties on May 12, 2025. The claimant filed his appeal of the IRO decision with the Division on June 13, 2025. There are no other applicable provisions and/or Division Rules providing for extensions of and/or good cause exceptions to the 20-day deadline for appealing the IRO decision. Since the claimant did not comply with the 20-day deadline contained in the applicable Division Rules, the appeal of the IRO decision was untimely.

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 overcoming the decision issued by the IRO by a preponderance of evidence based medical evidence. The claimant did not appear, and no evidence was admitted on his behalf. There was insufficient explanation, through the use of evidence-based medical evidence, as to how the claimant met an exception to the requirements of the *Official Disability Guidelines* for the requested C4-C5 ACDF (22551, 22552, 22845, 22853X2, 20939). The claimant also did not establish the necessity of the requested C4-C5 ACDF (22551, 22552, 22845, 22853X2, 20939) 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.

The preponderance of the evidence is not contrary to the decision of the IRO that the claimant is not entitled to C4-C5 ACDF (22551, 22552, 22845, 22853X2, 20939).

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 Amerisure Insurance Company.
 - D. On (Date of Injury), the claimant sustained a compensable injury that extends to and includes head contusion without loss of consciousness, cervical sprain/strain, and nondisplaced transverse fracture of the sternum.

- E. On May 12, 2025, the Independent Review Organization determined the requested treatment of C-4, C-5 ACDF (22551, 22552, 22845, 22853X2, 20939) was not medically necessary or appropriate.
 - F. The claimant filed a Request to Schedule a Medical Contested Case Hearing to dispute the Independent Review Organization decision on June 13, 2025.
2. The Division sent to the claimant a 10-day letter with 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 claimant did not appear at the hearing on August 20, 2025, and did not respond to the Division's 10-day letter.
 4. The claimant did not have good cause for failing to appear at the hearing.
 5. The preponderance of the evidence-based medical evidence is not contrary to the decision of the independent review organization that the claimant is not entitled to C4-C5 ACDF (22551, 22552, 22845, 22853X2, 20939) for the compensable injury of (Date of Injury).
 6. C4-C5 ACDF (22551, 22552, 22845, 22853X2, 20939) is not health care reasonably required for the compensable injury of (Date of Injury).
 7. The claimant's appeal of the Independent Review Organization was filed on June 13, 2025, which was more than 20 days from May 12, 2025.

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 C4-C5 ACDF (22551, 22552, 22845, 22853X2, 20939).
4. The claimant did not timely appeal the Independent Review Organization decision.

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

**COGENCY GLOBAL, INC.
1601 ELM STREET, SUITE 4360
DALLAS, TEXAS 75201-4701**

Signed on September 12, 2025.

Kathryn Labovitz
Administrative Law Judge