OFFICE OF ADMINISTRATIVE COURTS
STATE OF COLORADO
WORKERS' COMPENSATION NO. 5-212-596-002

ISSUES

Has Claimant demonstrated, by a preponderance of the evidence, that the left total knee arthroplasty (TKA), as recommended by Dr. Jeffrey Arthur, is reasonable medical treatment necessary to cure and relieve Claimant from the effects of the admitted July 30, 2022 work injury?

FINDINGS OF FACT

1. On July 30, 2022, Claimant suffered an injury to her right knee while working for Employer. Respondents have admitted liability for the July 30, 2022 work injury.

2. Claimant's authorized treating physician (ATP) for this claim is Dr. David Reinhard. Claimant has received various treatment modalities for her right knee during this claim. This has included imaging, injections, and surgery.

3. Claimant first underwent surgery to her right knee on May 15, 2023. That surgery was performed by Dr. Mark Fitzgerald. Specifically, Dr. Fitzgerald performed a right knee partial medial meniscectomy, partial lateral meniscectomy, and patellofemoral and lateral chondroplasty.

4. Following that surgery, Claimant had physical therapy, and initially was doing well. However, her right knee symptoms returned and she was seen by Dr. Jeffrey Arthrur for consultation.

5. On January 25, 2024, Dr. Arthur recommended right total knee arthroplasty[1] (TKA). That surgery was performed by Dr. Arthur on May 31, 2024.

6. On August 27, 2024, Respondents filed a General Admission of Liability (GAL).

7. On October 10, 2024, Claimant was seen by Dr. Arthur for a post-surgical follow up. At that time, Claimant reported an increase in pain in her **left** knee. Dr. Arthur ordered left knee x-rays. In comparing those x-rays to x-rays taken in January 2024, Dr. Arthur noted that Claimant had a significant increase in arthritic changes in the left knee. Specifically, Dr. Arthur noted that there was a significant increase in osteophyte formation in the patellofemoral joint, and joint space narrowing. With regard to causation, Dr. Arthur wrote "it can be difficult to decipher what caused what or when things have occurred. But [I] agree with the overall thinking that some of the time it took to get the knee arthritis for the right side she was favoring that side which then

[1] Replacement.

exacerbated some of her issues on the left side." At that time, Dr. Arthur recommended a left total knee replacement.

8. On October 10, 2024, Dr. Arthur requested authorization for a left total knee arthroplasty (TKA).

9. On October 16, 2024, Claimant was seen by Dr. Reinhard. In the medical record of that date, Dr. Reinhard noted that Claimant was experiencing left knee pain. Dr. Reinhard also noted that Dr. Arthur had recommended a left knee replacement. Dr. Reinhard noted that Claimant initially had right knee symptoms, but her left knee began "hurting due to overuse". Dr. Reinhard specifically opined that Claimant's "left knee pain is likely due to overuse of the left lower extremity since her 07/30/22 right knee injury."

10. On January 28, 2025, Claimant attended an independent medical examination (IME) with Dr. Qing-Min Chen. In connection with the IME, Dr. Chen reviewed Claimant's medical records, obtained a history from Claimant, and performed a physical examination. In his IME report, Dr. Chen noted that the left knee MRI shows moderate to severe osteoarthritic changes in all three compartments of Claimant's left knee. Dr. Chen opined that Claimant's left knee symptoms and any need for medical treatment are not related to the July 30, 2022 work injury. In support of this opinion, Dr. Chen noted that the Colorado Medical Treatment Guidelines (MTG) do not recognize compensation as a mechanism of injury. Dr. Chen also noted that Claimant is "morbidly obese" with a body mass index (BMI) of 40.3. Dr. Chen further noted that the osteoarthritis in Claimant's left knee is a progressive disorder that will get worse over time. With regard to the recommended left knee replacement, Dr. Chen opined that Claimant's need for surgery is "due to idiopathic and non-work-related reasons".

11. Dr. Chen's testimony was consistent with his IME report. Dr. Chen reiterated his opinion that Claimant's left knee condition is not related to the July 30, 2022 work injury. Dr. Chen further testified that compensating for one leg does not cause an aggravation in the other leg. Dr. Chen testified that Claimant's age and weight are risk factors and more likely the causes of the progression of the arthritis in Claimant's left knee. Dr. Chen testified that although Claimant needs a left total knee replacement, Claimant's need for that surgery is not related to the July 30, 2022 work injury.

12. Claimant testified that prior to her July 30, 2022 work injury she had no symptoms in either of her knees. Claimant further testified that she noticed an increase in left knee pain when she moved from using a walker to using a cane. Her left knee symptoms continued to worsen when she stopped using a cane and bore all her weight on her left leg to compensate for her injured right knee. At the time of the hearing, Claimant stated that she continues to have pain and swelling in her left knee. Claimant testified that she wishes to pursue the left knee replacement to improve her pain and function.

13. The ALJ credits the medical records and the opinions of Drs. Arthur and Reinhard. The ALJ also credits Claimant's testimony regarding the nature and onset of her left knee symptoms. The ALJ specifically credits Dr. Arthur's opinion that during the period of time that Claimant was favoring her right knee her left knee condition was exacerbated. The ALJ recognizes Dr. Chen's testimony that an injured limb does not lead to injury of the contralateral limb. However, the ALJ finds that as a result of Claimant's right knee injury and related surgeries and ongoing rehabilitation, Claimant began to have symptoms in her left knee that required medical treatment. The ALJ finds that the pre-existing arthritic condition present in Claimant's left knee was aggravated and accelerated by her compensation for injury right knee. This aggravation caused the asymptomatic arthritis in Claimant's left knee to become symptomatic, thus necessitating medical treatment.

14. Based upon the foregoing, the ALJ finds that Claimant has successfully demonstrated that it is more likely than not that her left knee complaints are causally related to the July 30, 2022 right knee injury. In addition, the ALJ finds that Claimant has successfully demonstrated that it is more likely than not that the recommended left total knee arthroplasty is reasonable medical treatment necessary to cure and relieve Claimant from the effects of the work injury.

CONCLUSIONS OF LAW

1. The purpose of the Workers' Compensation Act of Colorado is to assure the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, without the necessity of any litigation. Section 8-40-102(1), C.R.S. A claimant in a Workers' Compensation claim has the burden of proving entitlement to benefits by a preponderance of the evidence. Section 8-43-201, C.R.S. A preponderance of the evidence is that which leads the trier-of-fact, after considering all of the evidence, to find that a fact is more probable than not. *Page v. Clark*, 197 Colo. 306, 592 P.2d 792 (1979). The facts in a Workers' Compensation case are not interpreted liberally in favor of either the rights of the injured worker or the rights of the employer. Section 8-43-201, *supra*. A Workers' Compensation case is decided on its merits. Section 8-43-201, *supra*.

2. When determining credibility, the fact finder should consider, among other things, the consistency or inconsistency of the witness's testimony and actions; the reasonableness or unreasonableness (probability or improbability) of the testimony and action; the motives of the witness; whether the testimony has been contradicted; and bias, prejudice, or interest. *See Prudential Insurance Co. v. Cline*, 98 Colo. 275, 57 P.2d 1205 (1936); CJI, Civil 3:16.

3. The ALJ's factual findings concern only evidence that is dispositive of the issues involved. The ALJ has not addressed every piece of evidence that might lead to a conflicting conclusion and has rejected evidence contrary to the above findings as unpersuasive. *Magnetic Engineering, Inc. v. Industrial Claim Appeals Office*, 5 P.3d 385 (Colo. App. 2000).

4. Respondents are liable for authorized medical treatment reasonably necessary to cure and relieve an employee from the effects of a work related injury. Section 8-42-101, C.R.S.; *Sims v. Industrial Claim Appeals Office*, 797 P.2d 777 (Colo. App. 1990). The existence of a preexisting medical condition does not preclude the employee from suffering a compensable injury where the industrial aggravation is the proximate cause of the disability or need for treatment. *H & H Warehouse v. Vicory*, 805 P.2d 1167 (Colo. App. 1990); *Subsequent Injury Fund v. Thompson*, 793 P.2d 576 (Colo. App. 1990). A work related injury is compensable if it "aggravates, accelerates or combines with a preexisting disease or infirmity to produce disability or need for treatment." *H & H Warehouse v. Vicory, supra.*

5. As found, Claimant has demonstrated, by a preponderance of the evidence, that the recommended left TKA is reasonable medical treatment necessary to cure and relieve Claimant from the effects of the admitted July 30, 2022 work injury. As found, the medical records, the opinions of Drs. Arthur and Reinhard, and Claimant's testimony are credible and persuasive on this issue.

ORDER

It is therefore ordered that Respondents shall pay for the recommended left total knee arthroplasty (TKA), pursuant to the Colorado Medical Fee Schedule.

Dated April 10, 2025.

Cassandra M. Sidanycz
Administrative Law Judge
Office of Administrative Courts

If you are dissatisfied with the ALJ's order, you may file a Petition to Review the order with the **Denver Office of Administrative Courts**, 1525 Sherman St., 4th Floor, Denver, CO 80203. You must file your Petition to Review within twenty (20) days after service of the order, as indicated on the certificate of mailing or service; otherwise, the ALJ's order will be final. Section 8-43-301(2), C.R.S. and OACRP 27. You may access a petition to review form at: https://oac.colorado.gov/resources/oac-forms.

You may file the Petition to Review by mail, as long as the certificate of mailing attached to your petition shows: (1) That you mailed it within twenty (20) days after

mailing or service of the order of the ALJ; and (2) That you mailed it to the above address for the **Denver Office of Administrative Courts**. You may file your Petition to Review electronically by emailing the Petition to Review to the following email address: **oac-ptr@state.co.us**. If the Petition to Review is emailed to the aforementioned email address, the Petition to Review is deemed filed in Denver pursuant to OACRP 27(A) and Section 8-43-301, C.R.S. If the Petition to Review is filed by email to the proper email address, it does not need to be mailed to the Denver Office of Administrative Courts. **It is also recommended that you provide a courtesy copy of your Petition to Review to the Grand Junction OAC via email at oac-gjt@state.co.us.**