

**DECISION AND ORDER**

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

**ISSUE**

A benefit contested case hearing was opened on January 24, 2008, and closed on March 20, 2008, to decide the following disputed issue:

1. Whether the preponderance of the evidence is contrary to the decision of the Independent Review Organization (IRO) that prescriptions for Vicodin ES, Cymbalta, Neurontin, Buspar, and Lunesta are not reasonable and necessary health care services for the compensable injury of \_\_\_?

**PARTIES PRESENT**

Carrier appeared and was represented by an (Attorney). Claimant did not appear and did not respond to a 10-day letter.

**BACKGROUND**

The Claimant did not appear for the Contested Case Hearing scheduled for January 24, 2008. A letter was sent to the Claimant on February 20, 2008, offering her an opportunity to request that the hearing be reset to permit her to present evidence on the disputed issue. Claimant did not respond to the letter. Since the Claimant failed to appear and present evidence in support of the disputed issue, the Claimant has not met her burden of proof on the issue.

The IRO noted that under the ODG for the opioids that pain symptoms should be followed, a pain diary should be provided or an evaluation should be made showing additional need for supplemental medication. The ODG provides similar provisions and requirements for Neurontin, but neither monitoring nor recent evaluation was provided for any of the medications.

Therefore, the greater weight of evidence is not contrary to the IRO.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

**FINDINGS OF FACT**

1. The Commission sent a single document stating the true corporate name of the Carrier and name and street address of Carrier's registered agent with the 10-day letter to the Claimant at his address of record. That document was admitted into evidence as Hearing Officer Exhibit

- Number 2.
3. On \_\_\_\_, the Claimant lived within seventy-five miles of the (City) Field Office.
  4. On \_\_\_\_, the Claimant was an employee of (Employer).
  5. On \_\_\_\_, the Employer was a subscriber to workers' compensation.
  6. The Claimant failed to appear for the January 24, 2008 Contested Case Hearing and failed to respond to the 10-day letter.
  7. No evidence was received that showed that the Claimant had good cause for her failure to appear for the Contested Case Hearing.
  8. No evidence was received to show that prescriptions for Vicodin ES, Cymbalta, Neurontin, Buspar, and Lunesta are reasonable and necessary health care services for the compensable injury of \_\_\_\_.

### **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 Independent Review Organization (IRO) that prescriptions for Vicodin ES, Cymbalta, Neurontin, Buspar, and Lunesta are not reasonable and necessary health care services for the compensable injury of \_\_\_\_.
4. Claimant did not have good cause for her failure to appear for the Contested Case Hearing.

### **DECISION**

The preponderance of the evidence is not contrary to the decision of the Independent Review Organization (IRO) that prescriptions for Vicodin ES, Cymbalta, Neurontin, Buspar, and Lunesta are not reasonable and necessary health care services for the compensable injury of \_\_\_\_\_. Claimant did not have good cause for her failure to appear for the Contested Case Hearing.

### **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 **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201**

Signed this 16th day of April, 2008.

Charles T. Cole  
Hearing Officer