

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 contested case hearing was opened on May 13, 2008, and concluded on June 10, 2008, to decide the following disputed issue:

Whether the preponderance of the evidence is contrary to the decision of the Independent Review Organization (IRO) that six sessions of individual psychotherapy is not reasonable and necessary health care service for the compensable injury of _____.

PARTIES PRESENT

Claimant appeared and was assisted by IG, Ombudsman. Claimant's fiancé, LB, was also present. Carrier appeared and was represented by WW, attorney.

BACKGROUND INFORMATION

The claimant received a compensable injury on _____, while packing and lifting boxes in order to assist in an office move. Claimant was diagnosed with degenerative disc disease, bulging disc at L4-5, with a recessed narrowing at L5-S1. Since that time, she has continued to have lower back pain.

On March 13, 2007, Claimant was referred for a psychological evaluation by the Department of Assistive and Rehabilitative Services (DARS). Claimant was diagnosed with Major Depression at that time; however, no ongoing psychotherapy was recommended. She had a subsequent evaluation on May 15, 2007. Individual psychotherapy was recommended and preauthorization was requested on July 3, 2007. The Carrier denied the request for individual psychotherapy, citing an inadequate psychological evaluation as the reason. Reconsideration was requested and an additional reviewer denied the request for the same reason.

The medical dispute was referred to the Independent Review Organization (IRO) on September 26, 2007. The IRO found that "individual psychotherapy might have been medically necessary for this patient after a more thorough evaluation and possible completion of psychological testing to rule out malingering and possible histrionic presentation. Based on the information provided, individual psychotherapy was not medically necessary, as there had not been appropriate psychological testing completed."

In the instant case, the claimant did not meet her burden of proof. At the hearing, the claimant offered no expert medical evidence to rebut the IRO report, nor was there any additional evidence offered that was not available to the IRO reviewer. The claimant's testimony alone is insufficient to overcome the decision of 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 parties stipulated 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 _____, Claimant was the employee of (Employer) when she sustained a compensable injury.
2. Carrier delivered to Claimant and Health Care Provider a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 1.
3. The preponderance of the evidence is not contrary to the decision of the IRO that six sessions of individual psychotherapy is not reasonable and necessary health care service 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 IRO that six sessions of individual psychotherapy is not reasonable and necessary health care service for the compensable injury of _____.

DECISION

The preponderance of the evidence is not contrary to the decision of the IRO that six sessions of individual psychotherapy is not reasonable and necessary health care service for the compensable injury of _____.

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 **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is:

**CSC – LAWYERS INCORPORATING SERVICE COMPANY
701 BRAZOS STREET #1050
AUSTIN, TEXAS 78701**

Signed this 10th day of June, 2008.

Carolyn Cheu
Hearing Officer