

**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 held on June 18, 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 a heated pool is not reasonable and necessary health care for the compensable injury of \_\_\_\_\_?

**PARTIES PRESENT**

Claimant appeared and was represented by SCM, attorney. Carrier appeared and was represented by RJ, attorney. Also present was JH, observing.

**BACKGROUND INFORMATION**

On \_\_\_\_\_, Claimant sustained a compensable injury to her right toe/foot and was subsequently diagnosed with complex regional pain syndrome (CRPS) or RSD of the right lower extremity. The Claimant's treating doctor has recommended a heated exercise pool to relieve the affects of CPRS. This request was denied by the Carrier and the denial was upheld by the IRO. On September 4, 2007, the initial denial for the requested heated pool stated, "While psychologically pleasurable for the public at large, use of a heated pool confers no scientifically proven advantage over use of other local heat applications." The IRO reviewer noted that the request for a heated pool does not fall within the evidence-based medical guidelines for treatment of CRPS.

Under the Official Disability Guidelines (ODG) in reference to CRPS, there are no evidence-based treatment guidelines but the goal is to improve function. The recommendations include rehabilitation, psychological treatment and pain management. Pain management includes medications, sympathetic blocks, spinal cord stimulators and sympathectomy (which is generally not recommended). The Claimant testified that she has a TENS unit and that she has tried medications and injections but she does not want to have the spinal cord stimulator invasive surgery at this time.

The parties and the doctors agree that the ODG does not specifically address the use of aquatic therapy for treatment of CRPS. The Claimant's treating doctor, Dr. V, testified that the aquatic therapy would be beneficial for controlling pain and increasing the Claimant's activity level. However, Dr. V also testified that she had not prescribed aquatic therapy prior to the recommendation for a pool and that the Claimant has not undergone any supervised aquatic therapy sessions as of the date of this hearing. Dr. P testified that there has been no literature confirming any long term benefit of aquatic therapy for pain management and that the literature was inconclusive for long term benefits for RSD resulting from aquatic therapy.

Texas Labor Code §408.021 provides that an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. Health care reasonably required is further defined in Texas Labor Code §401.011 (22) (a) as health care that is clinically appropriate and considered effective for the injured employee's injury and provided in accordance with best practices consistent with evidence based medicine or, if evidence based medicine is not available, then generally accepted standards of medical practice recognized in the medical community. Health care under the Texas Workers' Compensation system must be consistent with evidence based medicine if that evidence is available. Evidence based medicine is further defined in Texas Labor Code §401.011 (18)(a) to be the use of the current best qualified scientific and medical evidence formulated from credible scientific studies, including peer-reviewed medical literature and other current scientifically based texts and treatment and practice guidelines. Health care is defined as all reasonable and necessary medical aids, medical examinations, medical treatments, medical diagnoses, medical examinations, and medical services. Pursuant to Texas Labor Code Ann. §401.011(19) (F), this includes a medical or surgical supply, appliance, brace, artificial member or prosthesis, including training in the use of such items. To constitute health care, the requested pool must be a medical aid or service and be reasonable and necessary. There is insufficient medical documentation in evidence that would indicate that the recommended pool would provide appropriate and beneficial treatment for CPRS, particularly since the Claimant has not undergone any previous aquatic therapy other than swimming in her mother's pool a few days last summer.

Based on the evidence presented, the Claimant failed to provide evidence based medicine sufficient to contradict the determination of the IRO and the greater weight of the credible evidence is not contrary to the decision of the IRO that a heated pool is not reasonable and necessary health care for the compensable injury of \_\_\_\_\_.

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 a single document stating the true corporate name of Carrier, and name and street address of Carrier's registered agent which was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. The Claimant failed to prove that a heated pool was either durable medical equipment or that the recommended pool was reasonable and necessary health care treatment for the Claimant's diagnosed CRPS.

4. The evidence presented is not contrary to the decision of the IRO that a heated pool is not reasonable and necessary health care 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 was proper in the (City) Field Office.
3. The preponderance of the evidence is not contrary to the decision of the IRO that a heated pool is not reasonable and necessary health care for the compensable injury of \_\_\_\_\_.

### **DECISION**

The preponderance of the evidence is not contrary to the decision of the IRO that a heated pool is not reasonable and necessary health care for the compensable injury of \_\_\_\_\_.

### **ORDER**

The carrier is not liable for the benefits at issue in this hearing. The claimant remains entitled to medical benefits for the compensable injury in accordance with Section 408.021.

The true corporate name of the insurance carrier is **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is:

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

Signed this 18th day of June, 2008.

Carol A. Fougerat  
Hearing Officer