

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.

ISSUES

A contested case hearing was held on October 16, 2008 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the IRO that the Claimant is not entitled to a prescription for Cyclobenzaprine 10 mg, one tablet per day, #30, no refills for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by JR, ombudsman.
Respondent/Carrier appeared and was represented by PS, attorney.

BACKGROUND INFORMATION

The Claimant sustained an injury to his cervical spine, thoracic spine and lumbar spine on _____. Claimant has been treated with physical therapy, injections and medications. Claimant's treating doctor has recommended a prescription for 10 mg of Cyclobenzaprine once a day for 30 days with no refills. The Claimant testified that he takes this medication for back spasms, tightness and to help him sleep. This prescription was denied by the Carrier and referred to an IRO. The IRO reviewer, a board certified internist, determined that the prescription for Cyclobenzaprine, a muscle relaxant, was not medically necessary to treat the Claimant's lumbar, thoracic and cervical spine injury. The IRO reviewer concluded that the *ODG* (Official Disability Guidelines) indicate the use of muscle relaxers in the treatment of acute low back pain, however, they are not recommended for treatment of chronic back and neck pain. Therefore, the continued use of Cyclobenzaprine is not indicated in this case.

Texas Labor Code Section 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. Section 401.011(22-a) defines health care reasonably required 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: (A) evidence based medicine; or (B) if that evidence is not available, generally accepted standards of medical practice recognized in the medical community." "Evidence based medicine" is further defined, by Section 401.011(18-a) as the use of the current best quality 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 in making decisions about the care of individual patients. The Division of Workers' Compensation has adopted treatment guidelines under Division Rule 137.100. That rule requires that health care providers provide treatment in accordance with the current edition of the *ODG*, and treatment provided pursuant to those

guidelines is presumed to be health care reasonably required as mandated by the above-referenced sections of the Texas Labor Code. The initial inquiry, therefore, in any dispute regarding medical necessity, is whether the proposed care is consistent with the *ODG*.

Pursuant to the *ODG* regarding the prescription medication of Cyclobenzaprine (Flexeril):

Recommended as an option, using a short course of therapy. See Medications for subacute & chronic pain for other preferred options. Cyclobenzaprine (Flexeril®) is more effective than placebo in the management of back pain; the effect is modest and comes at the price of greater adverse effects. The effect is greatest in the first 4 days of treatment, suggesting that shorter courses may be better. (Browning, 2001) Cyclobenzaprine-treated patients with fibromyalgia were 3 times as likely to report overall improvement and to report moderate reductions in individual symptoms, particularly sleep. (Tofferi, 2004) Note: Cyclobenzaprine is closely related to the tricyclic antidepressants, e.g., amitriptyline. See Antidepressants. Cyclobenzaprine is associated with a number needed to treat of 3 at 2 weeks for symptom improvement in LBP and is associated with drowsiness and dizziness. (Kinkade, 2007) Cyclobenzaprine is a skeletal muscle relaxant and a central nervous system (CNS) depressant that is marketed as Flexeril by Ortho McNeil Pharmaceutical.

The Claimant's treating doctor, Dr. B, responded to the denial of the request for Cyclobenzaprine by stating, "I still feel at this time that the use of Cyclobenzaprine is medically necessary and related to this original injury. He [Claimant] takes 1/2 tablet at night which relieves the spasms in his cervical, thoracic and lumbar and allows him to sleep. In the past other medications have been tried but did not offer the same relief." Dr. B concludes that, "The Cyclobenzaprine allows him to be more functional at home and at work. I strongly feel that this medication is medically necessary and related to his original injury." Dr. B did not address the IRO's concern regarding the *ODG* nor did he explain why the medication would be appropriate or necessary considering evidence based medicine. Based on the evidence presented, the Claimant failed to provide evidence based medicine sufficient to contradict the determination of the IRO and the preponderance of the credible evidence is not contrary to 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 he sustained a compensable injury.
2. Carrier delivered to Claimant 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 2.

3. The Claimant failed to provide evidence based medicine contrary to the IRO's determination that a prescription for Cyclobenzaprine 10 mg 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 is proper in the (City) Field Office.
3. The preponderance of the evidence is not contrary to the decision of the IRO that a prescription for Cyclobenzaprine 10 mg, one tablet per day, #30, no refills is not health care reasonably required for the compensable injury of _____.

DECISION

The claimant is not entitled to a prescription for Cyclobenzaprine 10 mg, one tablet per day, #30, no refills 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 **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for PETROSURANCE, an impaired company**, and the name and address of its registered agent for service of process is:

**MARVIN KELLEY, EXECUTIVE DIRECTOR
TPCIGA
9120 BURNET ROAD
AUSTIN, TEXAS 78758**

Signed this 16th day of October, 2008.

Carol A. Fougerat
Hearing Officer