

**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 October 2, 2008, and closed on November 20, 2008, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that Hydrocodone 10/325mg, 8 per day, is reasonable and necessary health care service for the compensable injury of \_\_\_\_\_?

**PARTIES PRESENT**

Claimant appeared and was assisted by JM, Ombudsman. Carrier appeared and was represented by JC, Attorney.

**BACKGROUND INFORMATION**

The Claimant received a compensable injury on \_\_\_\_\_ when she was employed by (Employer). She was walking between two cars, slipped, and received a puncture wound from windshield glass. Glass was embedded in the Claimant's arm and there were subsequent infections, resulting in numerous surgeries. The Claimant has been diagnosed with neuropathic pain and complex regional pain syndrome (CRPS), has numbness in three fingers, and has only 40% use of her right hand. She has been treated with a series of medications in an attempt to relieve her chronic pain. Most recently, the Claimant's physician, JLH, M.D., requested preauthorization for Hydrocodone 10/325mg 8/day. Utilization Review denied the request and the subsequent appeal, citing inadequate documentation of the effectiveness of the medication in relieving the Claimant's pain.

A request for a review by an Independent Review Organization (IRO) was submitted in August, 2008. The IRO reviewer, who is board certified in Physical Medicine and Rehabilitation and in Pain Management, overturned the previous denials, finding that the requested medication was medically necessary for the Claimant's pain management. The reviewer indicated that, "This is a very painful condition and narcotic analgesics are required to control the employee's pain levels. It would be noted that the employee's medication management appears to be effective in that the employee continues to work full-time. There is no indication from the current available records that the employee is abusing this medication. Current evidence-based guidelines require that the employee be closely monitored, especially when long-term utilization of an opioid medication is required. Previous physician reviewers have recommended the discontinuation of Oxycontin, which has been completed and was complied with by the employee. Based on this clinical information and Independent Medical Evaluation report by Dr. B, who is a member of the

American Society for Addiction Medicine, the continued use of hydrocodone is considered medically necessary and appropriate.”

The Carrier appealed the IRO decision; however, the Carrier does not dispute the Claimant’s need for the requested medication. The request, as submitted to the IRO, was open-ended, allowing the Claimant to receive this medication for an indefinite length of time. The Carrier argues that such a request does not meet the standards of Rule 134.600(f) (2) in that it does not specify the number of health care treatments and the specific period of time to complete the treatments. The Claimant responded that because the diagnosis is chronic neuropathic pain, there is no way to determine the length of time the medication will be necessary. It was discussed that the goal of the Claimant’s treatment was to decrease her medications when that was possible. The Claimant has follow-up appointments with her pain management physician on a monthly basis.

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. Health care reasonably required is further defined in Texas Labor Code Section 401.011 (22a) 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 Section 401.011 (18a) 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.

In accordance with the above statutory guidance, the Division of Workers' Compensation has adopted treatment guidelines by Division Rule 137.100. This rule directs health care providers to provide treatment in accordance with the current edition of the Official Disability Guidelines (ODG), and such treatment is presumed to be health care reasonably required as defined in the Texas Labor Code. Thus, the focus of any health care dispute starts with the health care set out in the Official Disability Guidelines (ODG). The IRO reviewer utilized the ODG in evaluating this case. The requested medication complies with the ODG for use in cases of diagnosed neuropathic pain and CRPS. The ODG does not set a specific period of time for the use of opioid medication. Therefore, the Carrier’s argument that the prescription should be denied because there is no time period is not supported by the ODG.

Health care reasonably required under the Texas Workers' Compensation Act must be evaluated based on evidence based medicine. In this case, the IRO decision evaluated the health care request in view of evidence-based medicine. The preponderance of the evidence is not contrary to the IRO decision

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 the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. JLH, M.D., the claimant's pain medicine physician, has prescribed Hydrocodone 10/325mg, 8 per day, for pain management.
4. The claimant is able to work full-time, has no side effects, and has had an improved quality of life since beginning this regimen of medication for pain management.
5. Dr. JLH sees the claimant for follow-up appointments every four to six weeks.
6. The use of Hydrocodone 10/325 mg, 8 per day, for diagnosed neuropathic pain and CRPS, is supported by the ODG.
7. Hydrocodone 10/325 mg, 8 per day, is 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 Hydrocodone 10/325 mg, 8 per day, is 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 Hydrocodone 10/325 mg, 8 per day, is reasonable and necessary health care service for the compensable injury of \_\_\_\_\_.

#### **ORDER**

Carrier is 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 N. ST. PAUL STREET  
DALLAS, TEXAS 75201**

Signed this 1st day of December, 2008.

Carolyn Cheu  
Hearing Officer