

MEDICAL CONTESTED CASE HEARING NO. 09092

M6-09-16060-01

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 January 15, 2009, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that Petitioner/Claimant is not entitled to prescriptions for Tizanidine HCL and Indomethacin for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by MF, ombudsman. Respondent/Carrier appeared and was represented by TW, attorney.

BACKGROUND INFORMATION

Claimant sustained a compensable injury, in the form of bilateral carpal tunnel syndrome, on _____, while working as a data entry clerk for the (Self-Insured Employer). According to Dr. GM, MD, Claimant suffers from cervical disc degeneration, cervical radiculitis, myofascial pain syndrome in her neck and shoulder, and mild residual neuropathy of both median nerves following bilateral carpal tunnel release surgeries. For many years, Claimant has taken Tizanidine for muscle spasm in her shoulders and neck and Indocin (Indomethacin) for anti-inflammatory effect.

Carrier has refused to pay for ongoing prescriptions of Tizanidine and Indomethacin. Claimant appealed adverse determinations regarding her continued use of these medications and ultimately requested that the adverse determinations be addressed through the IRO process. The Texas Department of Insurance (TDI) appointed (IRO Reviewer) to act as the IRO in this matter. (IRO Reviewer) referred the case to a physician reviewer. The physician reviewer has a board certification in physical medicine and rehabilitation and a subspecialty board certification in pain management.

The physician reviewer noted that Claimant is on several medications including different opioids and the Tizanidine and Indomethacin. He also noted that Claimant had been in a chronic pain program without any improvement and had a stomach bypass procedure. In addressing the medications at issue, he stated that Claimant complained of pain, but no spasticity was described in the medical records provided to him. He stated that Tizanidine has not been approved, but has been used, for myofascial pain and fibromyalgia. Although sometime used, he did not see a report from the treating doctor that demonstrated that the Tizanidine was helping Claimant.

In regard to the use of Indomethacin, the physician reviewer noted that is an older NSAID, similar to Ibuprofen and Naproxen, and was associated with more risks than Ibuprofen. He stated that some individuals respond better to Indomethacin than other medications and that the continued use of Indomethacin would be justified if there was documentation that it was helping her. As with the use of Tizanidine, no documentation of benefit from the Indomethacin was provided.

Claimant testified that she has been taking the medicines in dispute for years and that they were first prescribed by her initial treating doctor. When she changed doctors in 2000, her new doctor merely continued prescribing the Tizanidine and Indomethacin. That doctor quit seeing workers' compensation patients and she began seeing Dr. JF, MD in January of 2008. Dr. JF has continued prescribing the medications instituted by Claimant's initial treating doctor. Claimant offered some medical records from Dr. JF, but none from either of her prior doctors.

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 (Texas Labor Code §408.021). "Health care reasonably required" is defined 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, generally accepted standards of medical practice recognized in the medical community (Texas Labor Code §401.011(22-a)). "Evidence based medicine" means 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 (Texas Labor Code §401.011 (18-a)). In accordance with the above statutory guidance, Rule 137.100 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 reasonably required.

The physician reviewer referenced the ODG in his determination that, in the absence of documented findings that the Tizanidine and Indomethacin were of benefit, their continued use was not supported by evidence based medicine. The ODG lists Tizanidine among the general class of muscle relaxers, stating:

Recommend non-sedating muscle relaxants with caution as a second-line option for short-term treatment of acute LBP and for short-term treatment of acute exacerbations in patients with chronic LBP. (Chou, 2007) (Mens, 2005) (Van Tulder, 1998) (van Tulder, 2003) (van Tulder, 2006) (Schnitzer, 2004) (See, 2008) See the Low Back Chapter. Muscle relaxants may be effective in reducing pain and muscle tension, and increasing mobility. However, in most LBP cases, they show no benefit beyond NSAIDs in pain and overall improvement. Also there is no additional benefit shown in combination with NSAIDs. Efficacy appears to diminish over time, and prolonged use of some medications in this class may lead to dependence. (Homik, 2004) Sedation is the most commonly reported adverse effect of muscle relaxant medications. These drugs should be used with caution in patients driving motor vehicles or operating heavy machinery. Drugs with the most limited published evidence in terms of clinical effectiveness include chlorzoxazone, methocarbamol, dantrolene and baclofen. (Chou, 2004) According to a recent review in *American Family Physician*, skeletal muscle relaxants are the most widely prescribed drug class for

musculoskeletal conditions (18.5% of prescriptions), and the most commonly prescribed antispasmodic agents are carisoprodol, cyclobenzaprine, metaxalone, and methocarbamol, but despite their popularity, skeletal muscle relaxants should not be the primary drug class of choice for musculoskeletal conditions. ([See2, 2008](#))

Classifications: Muscle relaxants are a broad range of medications that are generally divided into antispasmodics, antispasticity drugs, and drugs with both actions. ([See, 2008](#)) ([van Tulder, 2006](#))

As noted by the physician reviewer, Tizanidine is an antispasticity drug. With specific reference to Tizanidine, the ODG states:

Tizanidine (Zanaflex®, generic available) is a centrally acting alpha2-adrenergic agonist that is FDA approved for management of spasticity; unlabeled use for low back pain. ([Malanga, 2008](#)) Eight studies have demonstrated efficacy for low back pain. ([Chou, 2007](#)) One study (conducted only in females) demonstrated a significant decrease in pain associated with subacute and chronic myofascial pain syndrome and the authors recommended its use as a first line option to treat myofascial pain. ([Malanga, 2002](#)) May also provide benefit as an adjunct treatment for fibromyalgia. ([ICSI, 2007](#))

Side effects: somnolence, dizziness, dry mouth, hypotension, weakness, hepatotoxicity (LFTs should be monitored baseline, 1, 3, and 6 months). ([See, 2008](#))

Dosing: 4 mg initial dose; titrate gradually by 2 – 4 mg every 6 – 8 hours until therapeutic effect with tolerable side-effects; maximum 36 mg per day. ([See, 2008](#)) Use with caution in renal impairment; should be avoided in hepatic impairment. Tizanidine use has been associated with hepatic aminotransaminase elevations that are usually asymptomatic and reversible with discontinuation.

The physician reviewer's comments are consistent with the cautions in the ODG that muscle relaxers are generally recommended for short term treatment and that their efficacy appears to diminish over time with a risk of dependence. The limited study of the use of Tizanidine for myofascial pain in females could support Claimant's continued use of that medicine, but it is difficult to argue that some evidence of the efficacy of the drug be documented before allowing the long term, off label use to continue. Without documentation of benefit, in light of the evidence based medicine recommendation that muscle relaxants be used for short term treatment and their loss of effectiveness over time and the long term use by Claimant, the evidence is not contrary to the physician reviewer's determination that the denial of the Tizanidine prescription should be upheld.

With regard to Indomethacin, the ODG states that the drug dosage should be decreased to the lowest effective dose or discontinued after the acute phase of a condition (osteoarthritis and ankylosing spondylitis were addressed). The ODG further recommends that it be discontinued after the signs and symptoms of inflammation had been controlled for several days. The ODG also comments, in regard to the use of NSAIDs as a class, that there is no evidence to recommend one drug in this class over another based on efficacy and that clinical trials are best interpreted to conclude that cardiovascular risk occurs with all NSAIDs and is a class effect with Naproxen being the safest drug of the class. The ODG also reports that NSAIDs have no evidence of long-term effectiveness for pain or function.

The only report offered by Claimant in support of her contention that the preponderance of the evidence is contrary to the IRO decision that the continued prescriptions for Tizanidine and Indomethacin were not supported by the evidence was a letter from Dr. JF dated December 22, 2008, that listed her complaints of a constant dull achy, intermittently sharp neck pain that radiated into her left upper extremity, gave a list of prescriptions, then concluded that "[a]ll these medications are medically indicated for the symptom (sic) sustained during her work-related injury occurring on _____."

In determining the weight to be given to expert testimony, a trier of fact must first determine if the expert is qualified to offer it. The trier of fact must then determine whether the opinion is relevant to the issues at bar and whether it is based upon a solid foundation. An expert's bald assurance of validity is not enough. See Black vs. Food Lion, Inc., 171 F.3rd 308 (5th Cir. 1999); E.I. Du Pont De Nemours and Company, Inc. v. Robinson, 923 S.W.2d 549 (Tex. 1995). A medical doctor is not automatically qualified as an expert on every medical question and an unsupported opinion has little, if any, weight. Black v. Food Lion, Inc., 171 F.3rd 308 (5th Cir. 1999). Without some documentation of the efficacy of the Tizanidine and Indomethacin in the instant case, Dr. JF' assertion that all of the medications that he has prescribed are medically necessary is unsupported by evidence based medicine. There is insufficient evidence of the long-term efficacy of the requested medications and Claimant has failed to show by a preponderance of the evidence that the IRO decision is contrary to the evidence.

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. Claimant sustained a compensable injury on _____, while an employee of the (Self-Insured Employer).
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. Claimant has been taking the prescribed medications, Tizanidine and Indomethacin, since before she changed treating doctors in 2000.
4. The medical records in evidence fail to show that the Tizanidine and Indomethacin, or either of them, continue to provide effective relief for the treatment of the compensable injury of _____.
5. The ODG does not recommend the long-term use of Tizanidine or other muscle relaxers for the treatment of chronic pain.
6. The ODG does not recommend the long-term use of Indomethacin.

7. The preponderance of the evidence is not contrary to the decision of the IRO physician reviewer that there is insufficient clinical evidence to support the continued use of Tizanidine and/or Indomethacin.
8. Prescriptions for Tizanidine and/or Indomethacin are not reasonably required medical treatment 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 IRO that prescriptions for Tizanidine and Indomethacin are not reasonably required medical care for the compensable injury of _____.

DECISION

Claimant is not entitled to prescriptions for Tizanidine HCL and Indomethacin 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 **(EMPLOYER) (SELF-INSURED)** and the name and address of its registered agent for service of process is

**CITY SECRETARY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Signed this 20th day of January, 2009.

KENNETH A. HUCTION
Hearing Officer