MEDICAL CONTESTED CASE HEARING NO. 09217
M6-09-17615-01

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.

ISSUE

A contested case hearing was held on July 13, 2009, to decide the following disputed issue:

> Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that Claimant is not entitled to a yearly medication-management office visit with her treating doctor, and continuing prescriptions for Mobic and Darvocet, for the compensable injury of _____?

PARTIES PRESENT

Petitioner/Claimant appeared, and was assisted by Ombudsman SA; Respondent/Carrier appeared by telephone, and was represented by Attorney RJ.

BACKGROUND INFORMATION

Claimant worked for many years as a bill collector for Employer's utility company, and her ongoing use of an ergonomically incorrect work station caused her to sustain a compensable repetitive trauma injury to her neck, shoulder, and upper extremity. Claimant's treating doctor has been prescribing Mobic and Darvocet to ease the continuing effects of the myofascial tissue injury she diagnosed, and has been scheduling an annual medication-management office visit for this purpose.

The Independent Review Organization denied the requested treatment as being not reasonable or necessary under the circumstances presented by this case. While the record of the contested Case Hearing contains a considerable amount of medical evidence that arguably supports Claimant's position in this case, this documentation does not constitute evidence-based medicine, as that term is described below.

DISCUSSION

Section 408.021 of the Texas Labor Code 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.

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 Diagnostic 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 ODG.

With regard to Mobic (generic name: meloxicam) the ODG states that it is prescribed for the relief of the symptoms of osteoarthritis, and provides the following information:

> Meloxicam is a nonsteroidal anti-inflammatory drug (NSAID) for the relief of the signs and symptoms of osteoarthritis. See NSAIDs (non-steroidal anti-inflammatory drugs); NSAIDs, GI symptoms & cardiovascular risk; NSAIDs, hypertension and renal function; & NSAIDs, specific drug list & adverse effects for general guidelines, as well as specific Meloxicam (Mobic®) listing for more information and references.

Insofar as the use of Darvocet (generic name: propoxyphene) is concerned, the ODG sets forth the following:

> Recommended as an option for mild to moderate pain, as indicated below. The most common brand names are Darvon® (propoxyphene hydrochloride), Darvon-N® (propoxyphene napsylate) or in combination with acetaminophen as Darvocet®. Generic available. Propoxyphene is structurally related to methadone. This is a synthetic opiate agonist that is ½ to 1/3 as potent as codeine. High doses are limited due to adverse effects including toxic psychosis. It is FDA approved for mild to moderate pain.
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> Dosage: Neither of these medications is recommended for the elderly. Dosage should be reduced for patients with hepatic or renal impairment. Propoxyphene hydrochloride: The standard adult dose is 65 mg every 3-4 hours. The maximum dose should not exceed 390 mg/day. Propoxyphene napsylate: The standard adult dose is 100 mg every 4 hours with a maximum dose of 600 mg/day.
>
> Side effects: sedation, nausea & vomiting and dizziness. Overuse can cause drug-rebound headache. Dependence can occur as well as mild withdrawal. FDA warnings: Do not prescribe to patients that are suicidal or addiction-prone. Prescribe with caution in patients taking tranquilizers or antidepressants, and in patients who use alcohol in excess. A major cause of drug-related deaths is secondary to propoxyphene alone or in combination with other CNS depressants. Other warnings: Use this drug with caution for patients that are dependent on opioids. Propoxyphene will not support morphine dependence. Sudden substitution may produce acute withdrawal. Note: On 1/30/09 an FDA advisory panel narrowly voted to recommend that propoxyphene should be pulled from the market. The committee stated that the evidence of efficacy for propoxyphene was marginally better than placebo and never greater than acetaminophen. The agency had collected reports of more than 1,400 deaths in people who had taken the drug since 1957, though

experts stressed the figure does not prove the drug was the cause of death in all cases, but they concluded that the drug showed little benefit and lots of risk. (FDA, 2009)

Overdose: Adverse effects include coma and respiratory depression as well as circulatory collapse. Complications such as irreversible brain damage and death may occur within one hour. These rapid, serious complications of overdose are due, in part, to the difficulty of reversal with naloxone (due to high tissue concentration and long half-life of metabolites). (Clinical Pharmacology, 2008) (Micromedix, 2008) (Lexi-Comp, 2008) (AHFS Drug Information, 2008) See also Opioids for general guidelines, as well as specific listing of Propoxyphene hydrochloride (Darvon®), Propoxyphene napsylate (Darvon-N®), Propoxyphene/Apap (Darvocet-N) for more information and references.

Comparing the content of the ODG with the specifics of the case at bar, the Hearing Officer notes that Claimant has been diagnosed with a myofascial tissue injury, rather than osteoarthritis. Since osteoarthritis is the sole medical condition for which the ODG recommends the use of Mobic, it must be concluded that the ODG does not support the use of Mobic to treat Claimant's myofascial tissue injury. In addition, although the ODG does recommend Darvocet for the treatment of mild to moderate pain, the ODG also notes the recent Food and Drug Administration (FDA) recommendation against the sale of Darvocet, thus substantiating the IRO's decision that this medication is neither reasonable nor necessary in this case.

As Claimant has presented no evidence-based medical opinion to justify a departure from the ODG and the IRO opinion based thereon, a decision in Carrier's favor is appropriate with respect to the sole issue presented for resolution herein.

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. On _____, Claimant was employed by the (Employer).

2. On _____, Employer subscribed to a policy of workers' compensation insurance issued by the Liberty Mutual Insurance Corporation.

3. On _____, Claimant sustained an injury arising out of the course and scope of her employment with Employer.

4. The Division 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.

5. Claimant's treating doctor, Dr. Y, M.D., recommended that Claimant have a yearly medication-management office visit, and prescribed Mobic and Darvocet to treat Claimant's compensable injury of _____.

6. The Independent Review Organization (IRO) determined that a yearly medication-management office visit and continued Mobic and Darvocet prescriptions were not

reasonable and necessary health care for Claimant's compensable injury of _____.

7. A yearly medication-management office visit and ongoing prescriptions for Mobic and Darvocet are not health care reasonably required for Claimant's 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 IRO's decision that a yearly medication-management office visit with her treating doctor and Mobic and Darvocet prescriptions are not health care reasonably required for the compensable injury of _____.

DECISION

Claimant is not entitled to a yearly medication-management office visit with her treating doctor and ongoing prescriptions for Mobic and Darvocet for her 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 **LIBERTY MUTUAL INSURANCE CORPORATION,** and the name and address of its registered agent for service of process is

CORPORATION SERVICES COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701

Signed this 21st day of July, 2009.

Ellen Vannah
Hearing Officer