

**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 June 15, 2010 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 the prescribed medications Flexeril, Valium, Norco and Xanax for the compensable injury of \_\_\_\_\_?

**PARTIES PRESENT**

Claimant appeared and was assisted by SS, Ombudsman. Carrier appeared and was represented by MM, Attorney.

**BACKGROUND INFORMATION**

Claimant sustained a compensable injury to her low back on \_\_\_\_\_ while working for (Employer). Claimant has been diagnosed with internal disc disruption and spinal stenosis at L5-S1. Claimant has received treatment in the form of physical therapy and medications. Claimant testified that she is a surgical candidate and that she was recommended to undergo ESI's; however, she has declined any surgery or injections. On October 30, 2008, Claimant began treating with Dr. S for pain management. Dr. S prescribed Flexeril 10 mg three times a day, Valium 10 mg for sleep, Norco 10/325 four times a day and Xanax 3mg at bedtime. The Claimant testified that she is attending school to obtain a teaching degree and that she only takes the medications as needed. The Claimant has had refill prescriptions for these medications that have been denied payment twice. Denial of the request to refill these prescriptions was appealed by the Claimant and forwarded to an Independent Review Organization (IRO) for resolution.

The IRO reviewer upheld the denial for the requested prescriptions concluding that these medications were not medically indicated. The IRO reviewer stated that the Claimant sustained a lumbar strain superimposed on degenerative changes which developed into chronic low back pain. The IRO reviewer noted that Flexeril (muscle relaxant) is indicated for the treatment of acute painful musculoskeletal conditions and that no studies have demonstrated efficacy with their use for chronic low back pain. The IRO reviewer went on to state that Norco (narcotic analgesics) should be prescribed for fixed periods of time and that long-term treatment with short-acting opiates is not effective or indicated treatment of chronic back pain. Regarding Valium and Xanax, the IRO determined that these Benzodiazepines are not indicated for the treatment of chronic low back pain.

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 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. The Commissioner of the Division of Workers' compensation is required to adopt treatment guidelines that are evidence-based, scientifically valid, outcome-focused and designed to reduce excessive or inappropriate medical care while safeguarding necessary medical care. Texas Labor Code Section 413.011(e). Medical services consistent with the medical policies and fee guidelines adopted by the commissioner are presumed reasonable in accordance with Texas Labor Code Section 413.017(1).

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 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. Also, in accordance with Division Rule 133.308 (t), "A decision issued by an IRO is not considered an agency decision and neither the Department nor the Division are considered parties to an appeal. In a Contested Case Hearing (CCH), the party appealing the IRO decision has the burden of overcoming the decision issued by an IRO by a preponderance of evidence-based medical evidence." The ODG addresses the necessity for the prescribed medications as follows:

### **Benzodiazepines (Valium and Xanax)**

Not recommended for long-term use because long-term efficacy is unproven and there is a risk of dependence. Most guidelines limit use to 4 weeks. Their range of action includes sedative/hypnotic, anxiolytic, anticonvulsant, and muscle relaxant. Chronic benzodiazepines are the treatment of choice in very few conditions. Tolerance to hypnotic effects develops rapidly. Tolerance to anxiolytic effects occurs within months and long-term use may actually increase anxiety. A more appropriate treatment for anxiety disorder is an antidepressant. Tolerance to anticonvulsant and muscle relaxant effects occurs within weeks.

### **Muscle Relaxants (Flexeril®)**

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.

**Cyclobenzaprine (Flexeril®, Amrix®, Fexmid™, generic available):** Recommended for a short course of therapy. Limited, mixed-evidence does not allow for a recommendation for chronic use. Cyclobenzaprine is a skeletal muscle relaxant and a central nervous system depressant with similar effects to tricyclic antidepressants (e.g. amitriptyline). Cyclobenzaprine is more effective than placebo in the management of

back pain, although the effect is modest and comes at the price of adverse effects. It has a central mechanism of action, but it is not effective in treating spasticity from cerebral palsy or spinal cord disease. Cyclobenzaprine is associated with a number needed to treat of 3 at 2 weeks for symptom improvement. The greatest effect appears to be in the first 4 days of treatment. (Browning, 2001) (Kinkade, 2007) (Toth, 2004) See Cyclobenzaprine. Cyclobenzaprine has been shown to produce a modest benefit in treatment of fibromyalgia. Cyclobenzaprine-treated patients with fibromyalgia were 3 times more likely to report overall improvement and to report moderate reductions in individual symptoms (particularly sleep). A meta-analysis concluded that the number needed to treat for patients with fibromyalgia was 4.8. (ICSI, 2007) (Tofferi, 2004)  
*Side Effects:* Include anticholinergic effects (drowsiness, urinary retention and dry mouth). Sedative effects may limit use. Headache has been noted. This medication should be avoided in patients with arrhythmias, heart block, heart failure and recent myocardial infarction. Side effects limit use in the elderly. (See, 2008) (Toth, 2004)  
*Dosing:* 5 mg three times a day. Can be increased to 10 mg three times a day. This medication is not recommended to be used for longer than 2-3 weeks. (See, 2008).

## **OPIOIDS (Norco)**

### *Recommendations for general conditions:*

*Chronic back pain:* Appears to be efficacious but limited for short-term pain relief. Long-term efficacy is unclear (>16 weeks), and there is also limited evidence for the use of opioids for chronic low back pain. (Martell-Annals, 2007) Failure to respond to a time-limited course of opioids has led to the suggestion of reassessment and consideration of alternative therapy. There is no evidence to recommend one opioid over another. In patients taking opioids for back pain, the prevalence of lifetime substance use disorders has ranged from 36% to 56% (a statistic limited by poor study design). Limited information indicated that up to one-fourth of patients who receive opioids exhibit aberrant medication-taking behavior. (Martell-Annals, 2007) (Chou, 2007) There are three studies comparing Tramadol to placebo that have reported pain relief, but this increase did not necessarily improve function. (Deshpande, 2007)

In response to the IRO's determination, Dr. S provided a rebuttal letter addressing the necessity of the prescribed narcotics. Dr. S agreed that the Claimant has been on Hydrocodone for "quite some time;" However, her dose is consistent and she is not requiring a high level. Dr. S went on to cite a study published in the Archives of Internal Medicine, Volume 161, July 9, 2001, by Browning, Jackson, and O'Malley, indicating that patients on Flexeril are five times more likely to respond to treatment than those on placebo. Dr. S noted that the Claimant has declined surgical intervention and epidural steroid injections for treatment of her low back injury. Regarding the necessity for Valium, Dr. S stated that Valium is not being used to treat her low back pain but as a sleep aid since she has a great deal of problems sleeping and that the Valium assists with muscle spasms. Dr. S agreed that the ODG recommends against the use of Hydrocodone (Norco) on a long-term basis, but that the nonsteroidal anti-inflammatories have been ineffective in controlling the Claimant's pain and, therefore, should be continued. Finally, Dr. S stated that he has prescribed Xanax for anxiety so that the Claimant is able to fall asleep and feel better throughout the next day. Dr. S concluded by stating that he will make attempts to taper her off the Norco in the near future.

Claimant's treating doctor did not address the specific concerns raised by the IRO or the recommendations in the ODG as stated above for the prescriptions of Flexeril, Xanax, Narco and

Valium. Dr. S cited a medical study regarding Hydrocodone; however, he failed to explain how this study relates to the Claimant's treatment or necessity of Hydrocodone for treatment of the Claimant's chronic low back pain resulting from the compensable injury. The prescriptions Xanax and Valium were prescribed for anxiety and sleep assistance. The Claimant testified that she has anxiety which disrupts her sleep but that her sleep deprivation is not due to her back pain. Additionally, the Claimant failed to present evidence-based medical evidence to support the medical necessity for continued, long-term use of these prescriptions. Based on the evidence presented, the Claimant failed to meet her burden of overcoming the decision of the IRO by a preponderance of the evidence-based medical evidence and, therefore, the Claimant is not entitled to the prescribed medications Flexeril, Valium, Xanax and Norco 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 low back 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 IRO decision was based on the ODG and concluded that the prescription medications Flexeril, Norco, Valium and Xanax are not medically reasonable and necessary for the compensable injury of \_\_\_\_\_.
4. The on-going use of the prescription medications Flexeril, Norco, Valium and Xanax is not health care reasonably required 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 the prescribed medications Flexeril, Valium, Norco and Xanax are not health care reasonably required for the compensable injury of \_\_\_\_\_.

**DECISION**

Claimant is not entitled to the prescribed medications Flexeril, Valium, Norco and Xanax 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 **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA**, and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY  
211 EAST 7<sup>TH</sup> STREET, SUITE 620  
AUSTIN, TX 78701-3218**

Signed this 15th day of June, 2010.

Carol A. Fougerat  
Hearing Officer