

MEDICAL CONTESTED CASE HEARING NO. 12112  
M6-07-5432-01

**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 May 22, 2012, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that the claimant is not entitled to Baclofen 10mg 1 tab BID to TID as needed #90 90862-no refill for the compensable injury of (Date of Injury)?

**PARTIES PRESENT**

Petitioner/Claimant appeared and was assisted by DV, ombudsman.

Respondent/Carrier appeared and was represented by JC, attorney.

**BACKGROUND INFORMATION**

The claimant was a highly rated employee who delivered drugs for his employer to hospice patients. On (Date of Injury), the claimant sustained a compensable injury to his low back. He has had two surgeries and now suffers from chronic pain with associated redactor pain in his legs. The claimant has appealed the IRO decision that his prescription for Baclofen drug should not be refilled.

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.

With regard to Baclofen the ODG states:

#### Muscle relaxants (for pain)

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. (Schnitzer, 2004) (Van Tulder, 2004) (Airaksinen, 2006) 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)

**Baclofen (Lioresal®, generic available):** The mechanism of action is blockade of the pre- and post-synaptic GABA<sub>B</sub> receptors. It is recommended orally for the treatment of spasticity and muscle spasm related to multiple sclerosis and spinal cord injuries. Baclofen has been noted to have benefits for treating lancinating, paroxysmal neuropathic pain (trigeminal neuralgia, non-FDA approved). (ICSI, 2007)

*Side Effects:* Sedation, dizziness, weakness, hypotension, nausea, respiratory depression and constipation. This drug should not be discontinued abruptly (withdrawal includes the risk of hallucinations and seizures). Use with caution in patients with renal and liver impairment. *Dosing:* Oral: 5 mg three times a day. Upward titration can be made every 3 days up to a maximum dose of 80 mg a day. (See, 2008)

No report or testimony was presented from a medical expert to explain what is unique regarding the claimant's condition to make use of Baclofen medically appropriate, contrary evidence based medicine that is more persuasive than the ODG, or that the ODG is inapplicable.

The preponderance of the evidence is not contrary to the findings of the IRO. Claimant is not entitled to the requested service.

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 (Date of Injury), the claimant was the employee of (Employer), Employer.
  - C. On (Date of Injury), employer provided workers' compensation insurance with Continental Casualty Company, carrier.
  - D. On (Date of Injury), the claimant 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. Baclofen 10mg 1 tab BID to TID as needed #90 90862-no refill is not health care reasonably required for the claimant's (Date of Injury), compensable injury.

### **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 not entitled to Baclofen 10mg 1 tab BID to TID as needed #90 90862-no refill is not health care reasonably required for the compensable injury of (Date of Injury).

### **DECISION**

Claimant is not entitled to Baclofen 10mg 1 tab BID to TID as needed #90 90862-no refill for the compensable injury of (Date of Injury).

### **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 **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, TX 75201**

Signed May 22, 2012.

Robert E. Lang  
Hearing Officer