

MEDICAL CONTESTED CASE HEARING NO. 14076

**DECISION AND ORDER**

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and the Rules of the Texas Department of Insurance, Division of Workers' Compensation. For the reasons discussed herein, the Hearing Officer determines that the preponderance of the evidence is not contrary to the decision of the IRO that Claimant is not entitled to KLONOPIN 1 mg PO TID 90 X 6 refills for the compensable injury of (Date of Injury).

**STATEMENT OF THE CASE**

A contested case hearing was held on July 3, 2014, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the IRO that Claimant is not entitled to KLONOPIN 1 mg PO TID 90 X 6 refills for the compensable injury of (Date of Injury)?

Claimant failed to appear for the contested case hearing and did not respond to the Division's 10-day letter. Carrier appeared and was represented by CL, attorney.

**EVIDENCE PRESENTED**

No witnesses testified.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits HO-1 and HO-2.

Carrier's Exhibits CR-A through CR-D.

**DISCUSSION**

Although properly notified, Claimant and Petitioner failed to appear for the contested case hearing scheduled for 10:30 a.m. on July 3, 2014. A letter advising that the hearing had convened and that the record would be held open for ten days to afford Claimant the opportunity to respond and request that the hearing be rescheduled to permit him to present evidence on the disputed issues was mailed to Claimant on July 3, 2014. Claimant failed to respond to the Division's 10-day letter and, on July 18, 2014, the record was closed. Having failed to appear and offer evidence in support of his claim, Claimant failed to show that he is entitled to the relief he seeks.

The Hearing Officer considered all of the evidence admitted. The Findings of Fact and Conclusions of Law are based on an assessment of all of the evidence whether or not the evidence is specifically discussed in this Decision and Order.

### **FINDINGS OF FACT**

1. Carrier 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), Claimant was the employee of (Employer), Employer.
  - C. On (Date of Injury), Employer provided workers' compensation insurance with Phoenix Insurance Company, Carrier.
  - D. Claimant sustained a compensable injury on (Date of Injury).
  - E. Carrier refused payment for KLONOPIN 1 mg PO TID 90 X 6 refills.
  - F. The Texas Department of Insurance appointed C-IRO as the independent review organization (IRO) to review Carrier's denial.
  - G. The IRO upheld Carrier's denial of approval for KLONOPIN.
2. The Division sent a single document stating the true corporate name of the Carrier and the name and street address of Carrier's registered agent for service with the 10-day letter to the Claimant at Claimant's address of record. That document was admitted into evidence as Hearing Officer Exhibit Number 2.
3. Claimant failed to appear for the July 3, 2014, contested case hearing and did not respond to the Division's letter offering him the opportunity to have the hearing rescheduled.
4. KLONOPIN 1 mg PO TID 90 X 6 refills is not health care reasonably required for the compensable injury of (Date of Injury).
5. Claimant did not have good cause for failing to appear at the contested case hearing.

### **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 KLONOPIN 1 mg PO TID 90 X 6 refills is not reasonably necessary health care for the compensable injury of (Date of Injury).

### **DECISION**

Carrier is not liable for the payment for KLONOPIN 1 mg PO TID 90 X 6 refills.

### **ORDER**

Carrier is not liable for the benefits at issue in this hearing, and it is so ordered. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021 of the Act.

The true corporate name of the insurance carrier is **PHOENIX INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
D/B/A CSC-LAWYERS INCORPORATING SERVICE CO.  
211 EAST 7TH STREET, SUITE 620  
AUSTIN, TX 78701-3218**

Signed this 18<sup>th</sup> day of July, 2014.

KENNETH A. HUCTION  
Hearing Officer