

MEDICAL CONTESTED CASE HEARING NO 25002

Decision

For the reasons discussed below, the administrative law judge decides:

The claimant is entitled to 12 weeks of individual psychotherapy for the compensable injury of (Date of Injury).

Statement of the Case

The claimant appealed the decision of the Independent Review Organization in Case Number (Number). Judge Robert Allen Clarkson held a hearing on February 5, 2025, with the record closing on February 13, 2025, to decide the following:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization that the claimant is not entitled to 12 weeks of individual psychotherapy for the compensable injury of (Date of Injury)?

Persons Present

The claimant appeared and was represented by RB, attorney. The insurance carrier did not appear. DH testified by telephone.

Evidence Presented

The following witnesses testified:

For the claimant: The claimant and DH

For the insurance carrier: None

The judge admitted the following exhibits into evidence:

Judge's Exhibits: ALJ-1 through ALJ-3

Claimant's Exhibits: C-1 through C-9

Insurance Carrier's Exhibits: None

The claimant affirmed there were 123 pages of Claimant's Exhibits.

Discussion

Although properly notified, the insurance carrier did not appear for the hearing. The Division of Workers' Compensation sent a 10-day letter to the insurance carrier. This letter explained that although the hearing had been held, the insurance carrier could request a new hearing, and what would happen if a new hearing was not requested. The Division of Workers' Compensation did receive a written response to the letter. The record closed on February 13, 2025.

The claimant treated with DH, MA, LPC, who recommended the disputed treatment. Preauthorization from the insurance carrier's utilization review agent was requested and denied.

The claimant requested an Independent Review Organization review of the denial. In the decision letter dated November 7, 2024, the Independent Review Organization agreed with the insurance carrier's denial. The claimant filed this appeal of the Independent Review Organization's decision.

Preauthorization was denied indicating that the claimant has ongoing psychological issues, however the reviewer was unable to determine if the claimant had prior psychotherapy, and if so, how many sessions, whether there was functional improvement, and noted a lack of documentation showing failure of ongoing medication management.

The Independent Review Organization noted that the claimant did have 34 psychotherapy sessions and that the Official Disability Guidelines allowed up to 50 progress is identified. Then it noted that the claimant had not improved over the last few sessions and therefore opined that the disputed treatment was not medically necessary.

To determine if treatment is medically necessary, Texas law requires the Division of Workers' Compensation to use treatment guidelines. These guidelines must be evidence-based, scientifically valid, and outcome-focused. Use of these guidelines ensures that an injured employee will receive reasonable and necessary health care. The Division uses the current edition of the Official Disability Guidelines. If the Official Disability Guidelines does not address the requested treatment, then other guidelines or generally accepted standards of practice recognized in the medical

community are used.

In this dispute, the claimant had the burden of showing by a preponderance of the medical evidence that the Independent Review Organization's decision was incorrect. The claimant presented medical reports from Ms. H to support her position that the decision of the Independent Review Organization should be overturned.

Ms. H provided persuasive testimony of how the claimant met the criteria for the requested treatment. The Official Disability Guidelines support the necessity of the disputed treatment. Therefore, the preponderance of the evidence is contrary to the decision of the Independent Review Organization that the claimant is not entitled to 12 weeks of individual psychotherapy for the compensable injury of (Date of Injury).

The judge considered all the evidence admitted and based the findings of fact and conclusions of law on the evidence, even if the judge did not specifically discuss all the evidence.

Findings of Fact

1. The claimant stipulated to the following facts:
 - A. The (City) field office is the proper location for the hearing.
 - B. On (Date of Injury), the claimant was an employee of (Employer), which provided workers' compensation insurance with Indemnity Insurance Company of North America.
 - C. Dr. KL was appointed by the Division of Workers' Compensation as the designated doctor to determine maximum medical improvement, impairment rating, extent of injury, disability, and return to work.
2. The insurance carrier did not appear at the hearing but did respond to the Division of Workers' Compensation's 10-day letter.
3. The insurance carrier did not have good cause for failing to appear at the hearing.

4. The Independent Review Organization determined that the claimant is not entitled to 12 weeks of individual psychotherapy for the compensable injury of (Date of Injury).
5. Twelve weeks of individual psychotherapy is health care reasonably required for the compensable injury of (Date of Injury).

Conclusions of Law

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
2. The preponderance of the evidence is contrary to the decision of the Independent Review Organization that 12 weeks of individual psychotherapy is not health care reasonably required for the compensable injury of (Date of Injury).

Order

The insurance carrier is liable for the benefits at issue in this decision.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA**, and the name and address of its registered agent for service of process is:

**CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS, TEXAS 75201-3136**

Signed on February 13, 2025.

Robert Allen Clarkson
Administrative Law Judge