

## **MEDICAL CONTESTED CASE HEARING**

### **Decision**

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

The claimant is not entitled to occupational therapy evaluation and treatment, 16 visits at two times weekly for eight weeks, 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 (IRO Case Number). Judge Jacquelyn Coleman held a hearing for this appeal on April 20, 2023, 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 occupational therapy evaluation and treatment, 16 visits at two times weekly for eight weeks, for the compensable injury of (Date of Injury)?

### **Persons Present**

The claimant appeared and was represented by CF, attorney.  
The insurance carrier appeared and was represented by CE, attorney. HH was the interpreter.

### **Evidence Presented**

The following witnesses testified:

For the claimant:	The claimant and Dr. SG
For the insurance carrier:	None

The judge admitted the following exhibits into evidence:

Judge's Exhibit:	ALJ-1
Claimant's Exhibits:	C-1 through C-8

Insurance Carrier's Exhibits: CR-A through CR-G

The claimant affirmed there were 83 pages of Claimant's Exhibits. The insurance carrier affirmed there were 32 pages of Insurance Carrier's Exhibits.

### **Discussion**

The claimant was injured at work on (Date of Injury), when his right upper extremity was stuck in an industrial grinding machine. The claimant underwent an amputation of the right upper extremity above the elbow. The claimant has been diagnosed with acquired absence of the right upper limb above the elbow, phantom limb pain syndrome, chronic pain syndrome, post-traumatic stress disorder, and anxiety associated with depression.

The claimant treated with Dr. SG, a physical medical and rehabilitation and pain management doctor, who recommended occupational therapy for the right upper extremity. Preauthorization from the insurance carrier's utilization review agent was requested and denied twice, in part, because there was no documentation of how many prior occupational therapy sessions the claimant had previously completed.

The claimant then requested an Independent Review Organization review of the denials. In the decision letter dated December 9, 2022, the Independent Review Organization agreed with the insurance carrier's denials. The claimant is now appealing the Independent Review Organization decision.

In this dispute, the claimant has the burden of showing by a preponderance of the medical evidence that the Independent Review Organization decision is wrong. The claimant relied on his testimony, the medical records in evidence, and the opinion of Dr. G to support his position of entitlement to the disputed treatment.

The insurance carrier relied on the medical records in evidence and the opinions of the utilization review agents and Independent Review Organization to support its position that the claimant is not entitled to the requested treatment.

The claimant testified that he would like to receive the disputed treatment because his right shoulder swells and makes it difficult for him to use his prosthesis. The claimant stated that he wants to become more independent and to perform more of his daily self-care. The claimant testified that he believes that occupational therapy would help

him to reach his goal.

Dr. G testified for the claimant. She testified that the claimant was referred to her by Dr. DM for treatment of the claimant's right shoulder pain and lack of function and for poor prosthesis fitting. Dr. G stated that she did not have a complete copy of the claimant's medical records, but she was aware that he had received some therapy prior to being seen by her. She stated that it was unclear from the medical history she obtained from the claimant if he had physical therapy or occupational therapy prior to being seen by her. Dr. G testified that occupational therapy, electrical stimulation treatment, and the traction that she was recommending would help with the claimant's range of motion and would assist with achieving a proper prosthesis fitting.

Dr. G did not cite any medical journal articles or any other evidence-based medicine to support her opinion.

The claimant's testimony was credible. However, the claimant's lay testimony was not sufficient to meet his burden of proof. The opinion of Dr. G was considered. However, she did not provide a persuasive explanation using evidence-based medicine of how occupational therapy is necessary.

The Official Disability Guidelines do not support the necessity of the disputed treatment. Therefore, the preponderance of the evidence is not contrary to the decision of the Independent Review Organization that the claimant is not entitled to an occupational therapy evaluation and treatment, 16 visits at two times per week for eight weeks 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 parties 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).

- C. On (Date of Injury), the employer provided workers' compensation insurance with Service Lloyds Insurance Company.
  - D. The claimant sustained a compensable injury on (Date of Injury).
  - E. The Independent Review Organization determined that the claimant should not have an occupational therapy evaluation and treatment, 16 visits at two times per week for eight weeks.
2. The insurance carrier delivered to the claimant a document stating the true corporate name of the insurance carrier, the name of the insurance carrier's registered agent, and the registered agent's street address, which was admitted into evidence.
  3. The preponderance of the evidence-based medical evidence is not contrary to the decision of the Independent Review Organization that the claimant is not entitled to an occupational therapy evaluation and treatment, 16 visits at two times per week for eight weeks 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 claimant is not entitled to an occupational therapy evaluation and treatment, 16 visits at two times per week for eight weeks for the compensable injury of (Date of Injury).

**Order**

The insurance carrier is not liable for the benefits at issue in this decision. The claimant remains entitled to medical benefits for the compensable injury.

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

**J. KELLY GRAY  
6907 NORTH CAPITAL OF TEXAS HIGHWAY  
AUSTIN, TEXAS 78731-1755**

Signed on April 26, 2023.

Jacquelyn Coleman  
Administrative Law Judge