

IRO America Inc.

An Independent Review Organization

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October 13, 2005

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: _____

TDI-DWC #: _____

MDR Tracking #: M2-05-2155-01

IRO #: 5251

IRO America Inc. (IRO America) has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI, Division of Workers' Compensation (DWC) has assigned this case to IRO America for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

IRO America has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor; the Reviewer is a credentialed Panel Member of IRO America's Medical Knowledge Panel who is a licensed M.D., board certified and specialized in Orthopedic Surgery. The reviewer is on the TWCC Approved Doctor List (ADL).

The IRO America Panel Member/Reviewer is a health care professional who has signed a certification statement stating that no known conflicts of interest exist between the Reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to IRO America for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

RECORDS REVIEWED

8-3-5 Atty Solcher letter, 7-19-5 Zurich, Felissa Zollman, MD advisor, 7-15-05 Letter of Med Necessity, Dr. Meyer Proler, 7-12-5 Proler, 7-6-5 Zurich Services, Felisa Zollman, Neurologist, 5-26-5, M Athari MD, 1-20-5 Athari MD, 10-25-04 Patel DC, 6-8-4 Moskowitz, 4-4-4 G Martin DC DD, 3-17-3 Harry Moskowitz, DO, DD, 2-27-2 MRI C, T, and L spine

CLINICAL HISTORY

OTJ 11-15-01

2-27-2 MRI C spine: L34 central 34 hn, no nr. 56 5mm hn L indents cords and marked L foram narrowing. **MRI shoulder** ok. **Tspine:** T12 prot mildly indent sac (48y/o), **L spine:** L12 thru 51 sbuligamentout prot. 51 disc deviates R S1 nr and R 51 foram. **[imaging showed Left C6, Right S1, and possible Right L5 nr's]**

3-17-3 Harry Moskowitz, DO, DD: otj described, DC, , John Perry MD ref PT taken off work PMP, ESI x 3, Ghadially MD ortho, rec PT and emg, neurologict Nguyen. c/o neck and lb, inc activities, N and P bil leg to F. Dec rest. Neck and bil hand tremors. **EMG = C6,** reinervation potentials. PE: slr neg, g/h/t, nonderm sens in ue and les, motor geg, dets ok; thorough exam = znxiety responses = neurology, ortho and psych consults, NOT at MMI. NI neuro.

4-4-4 G Martin DC DD: Rec no more DC care/

6-8-4 Moskowitz: Pt **hasn't worked** since accident, almost 3 years. At MMI because no improvement > 6 mos. Pt says he's in a state of despar, D and can't provide for himself and family. PE only + slr R lbp +/- . MMI IR 5%. D is significant portion of his c/o. notes x 25.

1-20-5 Athari MD, neurology: multiple neuro problems, Klonopin, Topomax, HA dizziness, Plan rt Dr. Patel Later visits, c/p shaking of legs, mes help, tpi, . Ultram, tremors, shaking, pe: lb tenderness, dec hyper ext, fine tremors, and jerking movement of thumbs and hands. **No Dx.** Rec cont meds. Re'eval if no better. Con neurontin, topomax and Lknoopin. Consider MRI brain.

5-17-5 Huynh DC: pt fell landing on head and left sh. No loc. I nec to lbp, L sh, and sever HA. Multiple providers for nonsurg includin DC x 2. MRI multi level hnd.EMG L C6. 6-8-4 DD 10%. c/o N and pain into both hads and legs. PE dec L C 5-8, Dx erviecal t, and lumbar hnd. Plan ref Dr. Francis ortho, and emg. And therapy for sthor term pain relerf and logn term. **Not working** & 7 subsequent visits.

5-26-5, M Athari MD: C/o weak rue. Spasm of the muscles and wekness of grip. Motor and sens ok. Rec cont meds, consider more diagnostic studes and possilbly neurosurg consult.

7-6-5 Zurich Services, Felisa Zollman, Neurologist: denies EMG/NCV because no rationale was provided and unable to reach Dr. Meyer Poler. Pt has dec sens L C5-8. No other neruo is described. Med necessity not supported by records rec'd.

7-12-5 Proler; OTJ 11-15-01. Fell 4 ft off ladder injued neck and lb. MRI hnp C34, 45, 56 and 67. Form 56 and 67. Mri lumbar 34 prot, 34 mm disc prot from L1 to L5 and 4-5 mm hn 51. that deviates the R S1 nr. 4/02 EMG ue = L C6 radic. LESI no help.6-28-04 DD = MMI on 3-15-04 IR = 23%. "He did not receive the proper treatment whicle he was under the care of his prior treating doctoer." Dr. Huynh requested EMG/NCV of ue and le's.Pt c/o pain into both ue and le's. 5/10 in neck and 7/10 in lb. Dropped item from hands, legs anre weak and give out, spasms in arms and legs that he can feel and see., = fibrillations. PE dec R triceps, inc R aj, dec L aj., slr inc radicular features in le's, fibrillations in rue, weakness in some bilat S1 and R L5 muscles, muscle weakness in several C5 and 6 muscle bialt, L bicep weakness, atrphy in L forearm, s\atrfy in R gastroc.[**pt has evidence of R C7, L S1, weakness both LEs = S1 and L5, weakness bilat C5 and 6. In other words, this patient has at least 7 nerves involved!**] Recs EMG to establish current status because prior EMG wa positive for C6 radci L only. A myelogram/CT may be required. [this is 4 years postinjury with significant bile ue and le s/s. Sound like really need definitive imaging and surgical consult]

7-15-05 Letter of Med Necessity, Dr. Meyer Proler: pt c/o worsening s/s in bilat ue and le's. Progressive pain, N, and dec motor strength. Sites Amer Acad of Electrodiagnostic Guidelines which says, "Serial studies can follow the course of an injury... If surgical intervention is planned, consideration should be given to perform electrodx fist, since postoperative electrodx are more meaningful when it is possible to compare the results to preop studies." Request study to prevent further neuro damage, can define the etiology, severity and time course. Determine level of the root injury, ongoing injury to nr, [and other generalizations]. Dr. Proler stated no specific reasoning for EMG in this case.

7-19-5 Zurich, Felissa Zollman, MD advisor: neuro exam insufficient to determine if emg warranted. She spoke with DC's partner about the exam. Recent DD found neg neuro. Nonsufficient clarification.

8-3-5 Atty Solcher letter: carrier's position that EMG will not change care or treatment.

DISPUTED SERVICE(S)

Under dispute is prospective and/or concurrent medical necessity of Repeat EMG/NCV bilateral upper extremities.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance carrier.

RATIONALE/BASIS FOR THE DECISION

This patient has been symptomatic for almost 4 years. Several providers have found no significant neurological findings, and at least one provider has documented significant depression. Though the patient has multiple imaging abnormalities, the patient is approximately 48 years of age, and most if not all of these findings are unrelated to his symptoms. The EMG that was done on or before 2003 was indicative of a C6 radiculopathy, but to my knowledge the patient has had no neurosurgical or orthopedic spine surgical consult. Dr. Proler argues for further testing. He also documents involvement of at least 7 separate nerves based on weakness in his physical exam. Dr. Proler's letter of medical necessity speaks in generalities and fails to document the rationale for electrodiagnostics in this case. My opinion is that because this patient has been disabled for 4 years, last had imaging 3 ½ years ago, is complaining of pain and numbness, has been treated by chiropractors and neurologists without success, had reasonably objective evidence of a single level and single sided cervical radiculopathy, then the patient should see a good *conservative* spine surgeon, and have a myelogram/CT. This consult, and updated imaging will be more definitive than an EMG as far as making a diagnosis and deciding if there is anything more definitive to be done. Even if the EMG is abnormal, updated imaging and a surgical consult will still be necessary. The surgeon can decide if an EMG will be of value in clarifying the diagnosis. The spine surgeon should be made aware of the results of the psychiatric exam.

Screening Criteria

1. General:

In making his determination, the Reviewer had reviewed medically acceptable screening criteria relevant to the case, which may include but is not limited to any of the following: Evidence Based Medicine Guidelines (Helsinki, Finland); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Texas Chiropractic Association: Texas Guidelines to Quality Assurance (Austin Texas); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Mercy Center Guidelines of Quality Assurance; any and all guidelines issued by TWCC

or other State of Texas Agencies; standards contained in Medicare Coverage Database; ACOEM Guidelines; peer-reviewed literate and scientific studies that meet nationally recognized standards; standard references compendia; and findings; studies conducted under the auspices of federal government agencies and research institutes; the findings of any national board recognized by the National Institutes of Health; peer reviewed abstracts submitted for presentation at major medical associates meetings; any other recognized authorities and systems of evaluation that are relevant.

CERTIFICATION BY OFFICER

IRO America has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. IRO America has made no determinations regarding benefits available under the injured employee's policy.

As an officer of IRO America Inc., I certify that there is no known conflict between the Reviewer, IRO America and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

IRO America is forwarding by mail or facsimile, a copy of this finding to the TWCC, the Injured Employee, the Respondent, the Requestor, and the Treating Doctor.

Sincerely,

IRO America Inc.



Dr. Roger Glenn Brown

President & Chief Resolutions Officer

Cc: [Claimant]

Advanced Neurological Associates/M. Proler M.D.

Attn: John Slaughter

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Zurich American Ins. c/o F.O.L.

Attn: Katie Foster

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Dr. Thoa Huynh

Attn: Medical Records

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Dr. Jim Cain

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Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

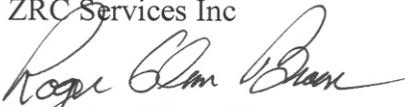
If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

I hereby certify, in accordance with DWC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the DWC via facsimile, U.S. Postal Service or both on this 13th day of October 2005.

Name and Signature of IRO America Representative:

Sincerely,
ZRC Services Inc



Dr. Roger Glenn Brown
Chairman & CEO