

# P-IRO

An Independent Review Organization  
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November 11, 2005

TDI-DWC Medical Dispute Resolution  
Fax: (512) 804-4868

Delivered via Fax

Patient / Injured Employee \_\_\_\_\_  
TDI-DWC # \_\_\_\_\_  
MDR Tracking #: M2-06-0166-01  
IRO #: 5312

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

P-IRO 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. This case was reviewed by a licensed M.D. board certified and specialized in Orthopedic Surgery. The reviewer is on the DWC Approved Doctor List (ADL). The P-IRO 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 the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carriers health care providers who reviewed the case for decision before 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**

Notification of IRO assignment, information provided by The Requestor, Respondent, and Treating Doctor(s), including:

Request for EMG/NCS, 09/08/05 and 09/21/05  
Initial report, Dr. Weldon, 04/01/03  
Clinic notes, 04/15/03, 04/30/03, 05/09/03, 05/30/03, 06/24/03, 07/16/03, 08/06/03, 09/05/03, 10/06/03, 11/05/03/12/08/03, 01/19/04, 02/10/04, 03/10/04, 04/12/04, 05/12/04, 06/01/04  
Functional capacity evaluation, 10/06/03  
Letter of medical necessity for medication, 12/08/03

EMG/NCS, 06/01/04

Clinic notes (handwritten and not legible), 07/02/04, 08/07/04, 09/01/04, 10/01/04, 11/01/04, 12/03/04

Office note, Dr. Rosenstein, 08/31/05, 09/14/05, and 10/03/05

Letter from Dr. Rosenstein, 09/19/05

Letter form Attorney, 10/17/05, 10/31/05

Texas Worker's compensation work status

### **CLINICAL HISTORY**

This 40 year old male truck driver sustained multiple injuries as a result of a roll over truck accident on \_\_\_\_\_. The initial diagnoses were lumbar strain/sprain, thoracic myositis, right sacroiliac strain and possible kidney contusion. The Patient was treated conservatively with medications, physical therapy, a muscle stimulator and an epidural steroid injection.

The Patient continued treatment for low back complaints throughout 2003. A lower extremity EMG/NCS done in June 2004 showed evidence of lumbar radiculopathy.

The Patient eventually underwent a posterior lumbar fusion on 01/28/05. Following surgery The Patient was noted to have some increased symptoms of low back and bilateral leg pain. A repeat EMG/NCS was recommended to evaluate the lower extremity symptoms. The EMG/NCS was denied twice by the insurance carrier.

### **DISPUTED SERVICE (S)**

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

### **DETERMINATION / DECISION**

The Reviewer disagrees with the determination of the insurance carrier.

### **RATIONALE/BASIS FOR THE DECISION**

The Patient was involved in a \_\_\_\_ motor vehicle accident and had an abnormal 06/01/04 EMG documenting a right S1 nerve root abnormality. The Patient was treated conservatively and due to ongoing pain underwent a 01/28/05 L5-S1 posterior lumbar interbody fusion. The Patient has continued to have low back and leg complaints and is using multiple narcotic pain medications for those complaints. The Patient has followed up with Dr. Rosenstein and his x-rays seem to show progressive fusion without instability and Dr. Rosenstein has requested an EMG to see if there is an anatomic cause to The Patient's leg complaints.

While it appears The Patient has no documented evidence of a neurologic deficit in his legs, he does have ongoing subjective leg complaints. The Patient did have an abnormal EMG prior to surgery and The Reviewer believe the requested EMG of his lower extremity at this time is to determine if there is an anatomic abnormality which might correlate with his subjective complaints if medically reasonable. The Reviewer believe Dr. Rosenstein is trying to determine whether or not there is an underlying anatomic basis for The Patient's complaints in an attempt to determine the best way to treat The Patient. For example, if there were EMG changes documenting ongoing nerve root abnormality, then it would be reasonable to possibly do some sort of CT myelogram to determine whether there is any further impingement and talk about the possibility of further surgery. If this EMG were completely normal, then based on the x-ray studies showing progressive fusion then it would show his treating physician the fact that there was no clear anatomic abnormality correlating with his subjective complaints and they could

hopefully more aggressively wean him from his chronic narcotic pain medication out in to the future.

The Reviewer, therefore, sees value in proceeding with an EMG at this time in an attempt to make an anatomic diagnosis and see whether or not The Patient does in fact have any abnormality which might correlate with his subjective complaints. The Reviewer, therefore, feels it is medically reasonable to proceed with this test at this time in an attempt to get the most information possible about this claimant and make the best treatment plan available.

### **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 DWC 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.

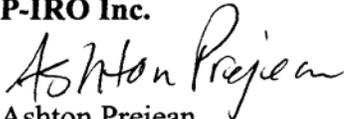
### **CERTIFICATION BY OFFICER**

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

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

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

Sincerely,  
**P-IRO Inc.**



Ashton Prejean

**President & Chief Resolutions Officer**

Cc: Jacob Rosenstein  
Attn: Jennifer  
Fax: 817-465-2775

American Zurich Ins. Co.  
Attn: Katie Foster  
Fax: 512-867-1733

## **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.

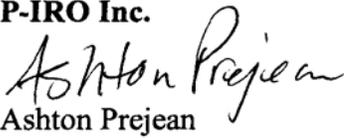
If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the 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, patient (and/or the patient's representative) and the DWC via facsimile, U.S. Postal Service or both on this 11<sup>th</sup> day of November 2005.**

**Name and Signature of P-IRO Representative:**

Sincerely,  
**P-IRO Inc.**



Ashton Prejean  
**President & Chief Resolutions Officer**