

November 18, 2005

[Claimant]

Re:    **MDR #:**            M2-06-0189-01            **Injured Employee:**    \_\_\_\_\_  
      **DWC #:**            \_\_\_\_\_                    **DOI:**                    \_\_\_\_\_  
      **IRO Cert. #:**    5055                    **SS#:**                    \_\_\_\_\_

**TRANSMITTED VIA FAX TO:**  
**TDI, Division of Workers' Compensation**  
Attention:  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REQUESTOR:**  
Jacob Rosenstein, MD  
Attention: Jennifer  
Fax: (817) 465-2775

**RESPONDENT:**  
Liberty Mutual Fire Ins Co  
Attention: Carolyn Guard  
Fax: (574) 258-5349

**TREATING DOCTOR:**  
AJ Morris, MD  
Fax: (972) 606-0244

Dear Mr. \_\_\_\_:

In accordance with the requirement for DWC to randomly assign cases to IROs, DWC assigned your case to IRI for an independent review. IRI has performed an independent review of the medical records to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him 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 carrier health care providers who reviewed the case for decision before referral to the Independent Review Organization. Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is a board certified in Anesthesiology and Pain Medicine and is currently listed on the DWC Approved Doctor List.

We are simultaneously forwarding copies of this report to the payor and the TDI, Division of Workers' Compensation. This decision by Independent Review, Inc. is deemed to be a DWC decision and order.

## 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.

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on November 18, 2005.

Sincerely,

Gilbert Prud'homme  
General Counsel

GP/dd

### REVIEWER'S REPORT M2-06-0189-01

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#### Information Provided for Review:

DWC-60, Table of Disputed Services, EOB's

From Requestor:

- Correspondence
- Office Notes 11/04/02 – 09/06/05
- Nerve Conductor Study 09/03/02
- Procedures 09/25/02 – 12/04/02
- Radiology 06/22/00 – 08/04/05

From Respondent:

- Correspondence
- Designated Reviews

Treating MD:

- Office Notes 06/12/02 – 09/01 05

#### Clinical History:

This claimant was allegedly injured at work on \_\_\_\_\_. The injury occurred after he backed into a hydraulic pin, causing him to twist his lower back. The claimant has subsequently undergone fusion surgery of both the lumbar and cervical spine and continues to complain of midback pain. He had thoracic myelogram and CT scan performed on July 10, 2002, which demonstrated partially calcified disc herniations from T4/T5 through T10/T11 with no focal thoracic nerve root compression or compromise at any of those levels. Following the myelogram, the claimant underwent 2 or 3 thoracic epidural steroid injections by Dr. Rosenbloom in September and October 2002. Following this series of thoracic epidural steroid injections, the claimant followed up with Dr. Rosenstein, reporting essentially the same pain as he had before the injection, continuing to consume the same amount of narcotics and medications as he did before the series

of injections. The claimant also followed up with Dr. Morris 3 months after the thoracic epidural steroid injection series, also reporting to him the same degree of pain as was present before the injection and the same consumption of medications. In his most recent progress notes, Dr. Rosenstein documents the claimant's ongoing midthoracic pain. Physical examination performed on the most recent office visit on September 6, 2005 documented no evidence of thoracic radiculopathy, only nonspecific midthoracic tenderness. Dr. Rosenstein requested thoracic epidural steroid injection, which has been twice denied by the carrier based upon peer review analysis.

**Disputed Services:**

Thoracic epidural steroid injection.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion the services in dispute as stated above are not medically necessary this case.

**Rationale:**

This claimant has no radicular pain complaint, only axial midthoracic pain. He has 2 or 3 thoracic epidural steroid injections in late 2002, which did not provide any significant or sustained pain relief or clinical benefit evidenced by his ongoing pain complaint and unchanged consumption of narcotics and pain medications. Additionally, the thoracic myelogram demonstrates evidence of chronic old thoracic disc herniations evidenced by their partial calcification but no focal nerve root or spinal cord compression. Thoracic epidural steroid injection is not medically reasonable or necessary to treat nonradicular axial midback pain, especially when there is no evidence of focal disc herniation. Moreover, there is no medical reason or necessity for repeating any procedure that is clinically ineffective. In this case, it is abundantly clear that prior thoracic epidural steroid injections were clinically ineffective based upon lack of significant or sustained benefit.

Therefore, there is no medical reason or necessity for thoracic epidural steroid injection to be performed on this claimant, nor is there a medical indication for this procedure in the absence of focal nerve root compression.