

IRO America Inc.

An Independent Review Organization

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Amended Decision July 17, 2006

July 14, 2006

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: _____

TDI-DWC #: _____

MDR Tracking #: M2-06-1539-01

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 DWC 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 MD, board certified and specialized in Orthopedic Surgery. The reviewer is on the DWC 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 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, records from the Requestor, Respondent, and Treating Doctor(s), including but not limited to:

- Therapy note, 07/28/05
- Office note, Dr. Pacheco-Serrant, 08/25/05, 09/15/05, 10/27/05, 02/28/06, 03/14/06, 03/22/06, 04/11/06, 05/09/06 and 05/23/06
- Office note, 09/14/05
- History, 09/30/05
- Continue physical therapy, 10/23/05

- Office note, Dr. Viesca, 10/26/05, 11/16/05, 12/14/05 and 02/08/06
- Office note, Dr. Trozler, 02/13/06
- Office note, Dr. Palafox, 04/13/06
- Peer review, 04/25/06
- Office note, Dr. Ratliff, 05/02/06

CLINICAL HISTORY

This is a 43 year old male sales representative who complained of neck and bilateral upper extremity pain following a _____ work incident. According to the 09/15/05 office note of Dr. Pacheco-Serrant, the MRI showed a small C3-4 disc herniation with mild reversed lordosis of cervical spine with no definite nerve impingement. On 10/27/05, Dr. Pacheco-Serrant documented that the previous EMG showed no ulnar lesion with no definite radiculopathy. The Patient was seen by Dr. Trozler on 02/13/06 for a maximum medical improvement and impairment rating. Examination findings at that time revealed atrophy of the right shoulder, tenderness of the cervical spine, intact reflexes, and decreased sensation in a stocking glove distribution of the entire left upper extremity and neck. Dr. Trozler's impression was cervical pain, muscular atrophy right shoulder, five percent whole person impairment and The Patient was at maximum medical improvement. On 03/31/06, Dr. Zollman, Neurology, denied the request for repeat EMG due to absent clinical evidence. Dr. Thompson on 04/25/06 denied repeat EMGs also due to a lack of medical evidence. Both Dr. Thompson and Dr. Zollman were unable to contact Dr. Pacheco-Serrant for discussion for the peer review.

On 05/02/06, Dr. Ratliff's clinical findings were normal sensation, no spasm, negative Romberg, sensation intact, right grip strength 20/18/26 and left 12/26/18. Dr. Ratliff's impression of the MRI was that it showed a very small disc bulge at C3-4 with contact of the cord. Dr. Ratliff noted The Patient had symptom magnification with normal neurological findings and normal range of motion. A functional capacity evaluation was performed at that time and the results indicated The Patient performed at a submaximal effort and was capable of light duty.

The 05/09/06 evaluation of Dr. Pacheco-Serrant found that The Patient had not improved with conservative management. Records provided documented failure to respond to epidural steroid injections, medication, physical therapy and activity modification. Examination findings on 05/09/06 were reverse lordosis of the cervical spine, limited range of motion with neck tenderness to palpation, decreased sensation to both upper extremities, and decreased deep tendon reflexes in bilateral upper extremities. The last office note of Dr. Pacheco-Serrant indicated that the MRI did not correlate with the findings in the clinic. Dr. Pacheco-Serrant has recommended an anterior cervical discectomy and fusion.

DISPUTED SERVICE(S)

Under dispute is the prospective, and/or concurrent medical necessity of repeat EMG/NCV.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

After review of the medical records, the repeat EMG/NCV cannot be recommended as being medically necessary for This Patient. The Patient has ongoing radicular complaints. These complaints have not been demonstrated on previous electrodiagnostic studies. There is no evidence that The Patient has had any change in his clinical condition and nothing to suggest

anything that would be gained by a repeat study from the standpoint of electrodiagnostic studies. Therefore, The Reviewer's medical assessment is that the repeat EMG/NGV is not medically necessary.

Screening Criteria

1. Specific:

- Rothman and Simeone, The Spine, 3rd edition. Chapter 7, 155 to 178

2. 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 literature 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 DWC, the Injured Employee, the Respondent, the Requestor, and the Treating Doctor.

Sincerely,
IRO America Inc.

Dr. Roger Glenn Brown
President & Chief Resolutions Officer

Cc: _____

Zurich / FOL
Attn: Katie Foster
Fax: 512-867-1733

Dr. Pacheco
Fax: 915-534-5220

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 Patient's representative) and the DWC via facsimile, U.S. Postal Service or both on this 13th day of July, 2006.

Name and Signature of IRO America Representative:

Sincerely,
IRO America Inc.

Dr. Roger Glenn Brown
President & Chief Resolutions Officer