

**MEDICAL CONTESTED CASE HEARING NO 25004**

**Decision**

For the reasons discussed, the administrative law judge determines that:

The preponderance of the evidence is not contrary to the decision of the Independent Review Organization that the claimant is not entitled to 72-hour video EEG as an outpatient for the compensable injury of (Date of Injury).

**Statement of the Case**

A contested case hearing was held on February 27, 2025, with the record closing on March 21, 2025, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that the claimant is not entitled to 72-hour video EEG as an outpatient for the compensable injury of (Date of Injury)?

The record was held open to obtain a corrected insurance carrier information sheet and to send a 10-day letter to the claimant. The record closed on March 21, 2025.

**Persons Present**

The claimant did not appear. The insurance carrier appeared and was represented by JS, attorney.

**Evidence Presented**

No witnesses testified.

The judge admitted the following exhibits into evidence:

Judge's Exhibits:	ALJ-1 and ALJ-2
Claimant's Exhibits:	None
Insurance Carrier's Exhibits:	CR-A through CR-F

The insurance carrier affirmed there were 33 pages of Insurance Carrier's Exhibits.

After the hearing, the judge admitted Judge's Exhibit ALJ-2 and substituted the corrected insurance carrier information sheet, Insurance Carrier's Exhibit CR-B. There were 6 pages of Judge's Exhibits.

### **Discussion**

Although properly notified, the claimant did not appear for the hearing. The Division of Workers' Compensation sent a 10-day letter to the claimant. This letter explained that although the hearing had been held, the claimant could request a new hearing, and what would happen if a new hearing was not requested. The Division did not receive a written response to the letter. The record closed on March 21, 2025.

To determine if treatment is medically necessary, Texas law requires the Division to use treatment guidelines. These guidelines must be evidence-based, scientifically valid, and outcome-focused. The use of these guidelines ensures that an injured employee will receive reasonable and necessary health care. See Texas Labor Code Section 413.011(e) and 413.017(1). The Division uses the current edition of the *Official Disability Guidelines*. If the *Official Disability Guidelines* does not address the requested treatment, then other guidelines or generally accepted standards of practice recognized in the medical community are used.

The claimant did not appear at the hearing, nor did he submit any evidence to support his claim. However, the Notice of Independent Review Decision stated the claimant sustained a compensable injury on (Date of Injury), in the form of post-concussion syndrome and migraine headaches. The Notice of Independent Review Decision also stated that the claimant reported continuing headaches. However, the current Official Disability Guidelines does not recommend EEG studies as a part of an evaluation for headaches. The Independent Review Organization reviewer noted that no other pertinent current clinical findings were detailed in the records to support proceeding with the 72-hour video outpatient EEG study.

The party appealing the Independent Review Organization decision has the burden of overcoming the decision issued by an IRO by a preponderance of evidence-based medical evidence. The judge reviewed the evidence submitted. The claimant did not establish through evidence-based medical evidence that the requested 72-hour video EEG as an outpatient was reasonable and necessary for the compensable injury of (Date of Injury). The preponderance of the evidence-based medicine was not contrary to the

Independent Review Organization's decision.

The judge considered all the evidence admitted and based her 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 insurance carrier 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 Everest Denali Insurance Company.
  - D. On (Date of Injury), the claimant sustained a compensable injury.
2. The Division sent to the claimant a 10-day letter with 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 claimant did not appear at the hearing on February 27, 2025, and did not respond to the Division's 10-day letter.
4. The claimant did not have good cause for failing to appear at the hearing.
5. The IRO determined that 72-hour video EEG as an outpatient was not medically necessary.
6. The preponderance of the evidence-based medicine is not contrary to the Independent Review Organization decision that the 72-hour video EEG as an outpatient was not healthcare reasonably required 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. Venue is proper in the (City) field office.
3. The preponderance of the evidence is not contrary to the decision of the Independent Review Organization that the claimant is not entitled to 72-hour video EEG as an outpatient for the compensable injury of (Date of Injury).

### **Order**

The insurance carrier is not liable for the benefits at issue in this hearing. The claimant remains entitled to medical benefits for the compensable injury in accordance with Texas Labor Code Section 408.021.

The true corporate name of the insurance carrier is **EVEREST DENALI INSURANCE COMPANY**, and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY  
211 EAST 7TH STREET, SUITE 620  
AUSTIN, TEXAS 78701-3218**

Signed on March 26, 2025.

Hsin-Wei Luang  
Administrative Law Judge