

IRO America Inc.

An Independent Review Organization

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Amended November 15, 2005

Amended November 9, 2005

October 26, 2005

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: _____

TDI-DWC #: _____

MDR Tracking #: _____

M2-05-2348-01

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 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:

Lumbar MRI 05/11/04

Office notes of Family Orthopedics 05/18/04, 06/23/04, 07/28/04, 08/25/04

Report from Dr. Hill 08/03/04

DEC evaluation 08/06/04

Office notes of Dr. Piskun 09/08/04, 09/13/04, 05/26/05, 06/23/05
Office note of Dr. Ice 01/19/05, 04/21/05
EMG/NCV 02/24/05
Procedure note 03/22/05
Evaluation by Billy Stone, LPC 03/23/05
Procedure note 05/03/05
Lumbar myelogram 06/16/05
Post myelogram CT 06/16/05
Lumbar x-rays 07/15/05

CLINICAL HISTORY

The patient is a 53-year old male injured on _____. He was reportedly working at the cotton gin trying to put a tarp over some machinery when the wind caught the tarp and caused him to lose his balance. He was up on a platform when his right foot dropped off of the platform approximately 2 feet.

A lumbar MRI done on 05/11/04 revealed degenerative disc disease at L2-3, L4-5 and L5-S1. There were posterior disc bulges at L2-3 and L4-5 without significant spinal or neural foraminal stenosis. Minimal spondylolisthesis at L5-S1 was noted with associated unroofing of the intervertebral disc but no spinal or neural foraminal stenosis. The patient was seen at Family Orthopedics on 05/18/04 with complaints of radiating pain into the lower back, the back of the upper leg and in the calf of the right foot. He received epidural steroid injections on 06/23/04 and 07/28/04. An impairment evaluation report from Dr. Hill done on 08/03/04 indicated that the patient's back pain appeared to be discogenic and mechanical and could most likely be treated conservatively. A DEC evaluation of 08/06/04 noted that initially the patient did not have complaints of back pain and that the back pain started sometime in January. According to the report, the patient had multiple positive Waddell signs and was assigned 0 percent impairment. On 08/25/04 the patient returned to Family Orthopedics and was deemed maximum medical improvement as of that date. A 5 percent impairment was given. The patient saw Dr. Piskun on 09/08/04. At that time straight leg raises were negative, reflexes were 1+ and motor examination was intact. According to Dr. Piskun's 09/13/04 note the MRI showed a mild subluxation at L5-S1 and a quite small bulging disc at L2-3, slightly to the right of midline. The L4-5 level showed a small disc bulge.

On 01/19/05 the patient was seen by Dr. Ice with complaints of pain in the right side of the low back going down into the right leg. Physical therapy had reportedly been attempted. On exam motor was 4-/5 in right ankle dorsiflexion, plantar flexion and knee flexion. Motor was 5-/5 in right knee extension, left knee flexion and extension, ankle dorsiflexion and plantar flexion. There was decreased pinprick in the medial right leg and in all areas of the left leg. Reflexes were 1+/4 in the knees and right ankle and 0/4 in the left ankle with down going toes. Sitting straight leg raise was negative. EMG/NCV studies done on 02/24/05 revealed mild to moderate subacute bilateral L5 and S1 radiculopathy. Lumbar epidural steroid injections were given on 03/22/05 and 05/03/05. On 05/26/05 the patient still complained of difficulty with pain in the low back.

A lumbar myelogram done on 06/16/05 revealed a small to moderate sized ventral extradural defect at the L2-3 level. There might have also been a very small ventral extradural defect at L3-4, L4-5 and L5-S1. The post myelogram CT scan showed a bilateral L5 pars defect with Grade I anterolisthesis of L5 on S1, Grade I retrolisthesis of L2 on L3, and degenerative changes throughout the lumbar spine, most prominent at L2-3 and L5-S1. Flexion/extension films done on 07/15/05 revealed a spondylolisthesis at L5-S1, which was an approximate Grade II spondylolisthesis with a slight increase in movement of L5 forward on flexion compared to the extension radiographs. At L2-3 there was retrolisthesis as well as degenerative disc disease. An L5-S1 fusion, possible L2-3 fusion, instrumentation, and two day length of stay has been requested. This request had been denied per peer review on 07/26/05 and 08/12/05.

DISPUTED SERVICE(S)

Under dispute is prospective and/or concurrent medical necessity of L5-S1 fusion, possible L2-3 fusion, instrumentation with a two-day length of stay.

DETERMINATION/DECISION

The Reviewer partially agrees with the determination of the insurance carrier. The Reviewer disagrees with the insurance carrier on the L5-S1 fusion, and agrees with the insurance carrier on the L2-3 fusion.

RATIONALE/BASIS FOR THE DECISION

The records provided indicate that this patient has had ongoing low back pain since approximately January 2004. He has been treated conservatively with activity modification, physical therapy and epidural steroid injections. A recent CT scan revealed a bilateral L5 pars defect with Grade I anterolisthesis of L5 on S1 along with degenerative changes. A Grade I retrolisthesis of L2 on L3 was also noted. Recent flexion/extension films revealed an approximate Grade II spondylolisthesis at L5-S1 with a slight increase in movement of L5 forward on flexion. A retrolisthesis at L2-3 with degenerative disc disease was also noted. While there does appear to be the need for surgical fusion at the L5-S1 level due to the presence of the spondylolisthesis confirmed by flexion/extension films, the medical records do not support the need for the fusion at the L2-3 level. The patient has degenerative changes only at this level and no diagnostic studies have been provided to indicate that this level is actually the cause of or a contributor to this patient's pain. Therefore, there is medical evidence to support recommendation of the L5-S1 fusion, but not the L2-3 fusion.

Screening Criteria

1. Specific:
 - ACOEM guidelines, Chapter 12, page 310
 - Official Disability Guidelines, 200
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 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 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: [Claimant]

Walter Piskun
Attn: Dani
Fax: 806-350-7814

Transcontinental Ins. Co.
Attn: Deborah Womack
Fax: 214-220-5614

George Cole
Fax: 806-352-6599

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 26th day of October 2005.

Name and Signature of IRO America Representative:

Sincerely,

IRO America Inc.



Dr. Roger Glenn Brown

President & Chief Resolutions Officer