

IRO America Inc.

An Independent Review Organization

7626 Parkview Circle

Austin, TX 78731

Phone: 512-346-5040

Fax: 512-692-2924

Amended December 13, 2005

November 22, 2005

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: _____

TDI-DWC #: _____

MDR Tracking #: _____

M2-06-0056-01

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 M.D., 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: 2-7-3 M Aguilar PT12-9-2 MRI2-11-04 Texas Peer Review, D Mauldin, MD9-2-3 N Torres, MD4-26-04 D Villacres, MD-13-04 Texas Pain Institute, S Nguyen, MD8-24-04 S Kahkeshani, MD9-10-04 Texas Pain Institute9-10-04 FCE. 9-022-04 w Donovan, MD1-4-5 X-ray1-6-5 J Grossman, MD1-13-05 S Esses, MD5-19-5 S Esses, MD8-9-5 UniMed letter of denial8-25-5 UniMed letter of denial.

CLINICAL HISTORY

_____OTJ

12-9-2 MRI. Mod broad disc bulge 45. L 45 foram is compromised but doesn't compress the nr although there's a large amount of disc in the foramen.. Minimal bulge at 51. C Wright, MD>

2-7-3 M Aguilar PT. multiple visits.

2-11-04 Texas Peer Review, D Mauldin, MD. MRI doesn't correlate with pts R leg s/s; it shows L neuroforamen. Recs against surgery. OTJ walking the community dog when it jerked on the leash and injure her T and L spine, _____. IM, nsaid, PT, . 11-21-02 c/o lbp and N R. Neg slr. Ref mpp. With Villacres. MRI 2002 bulge extending more to the left into the foramen, 45. Min bulge 51, with small phytes. Improved until 12-27-03 when flared bending to tie shoe lace. ESIs. 2-17-03 c/o weakness bil and severe lbp. PT. OxyContin soma. 4-7-3 MRI pelvis and R hip, ovarian cysts. Discogram 7-17-03 "severe provocative pain at L45 and L5S1". Dr. Torres rec surgery. Off work from _____ until rtw 8-6-3. Saw R Brownhill, MD ortho, for lbp and bil leg with N. Rom dic. Dx hnp 45 with radic and + slr. Rec'd fusion 45 and 51.

9-2-3 N Torres, MD. Disco show discogenic at 45 and 51. Rec 45 and 51 lam disectomy and PLIF L4 to S1. Proc, risks, etc.

4-26-04 D Villacres, MD. Several notes. Pt has had three surgeons rec surgery. This doc is frustrated over ins co. delays in tx and wants to withdraw from the case because of the ins carrier. Pt gets an atty. Pt on Norco, Soma.

8-13-04 Texas Pain Institute, S Nguyen, MD.c/o lbp, leg N, weakness, inc sitting/standing/walking>10 min. 7/10. PE dec rom, all dtr's dec, strength "decreased in general", sens dec L5S1 derm (side?), slr + bil leg repro to toes. Dx lumbar radic, facet syndrome, Depression sec to chronic pain. Tx med contract...

8-24-04 S Kahkeshani, MD. EMG. Imp: bilat L5 radic

9-10-04 Texas Pain Institute. Pt awaiting sugery with *Dr. McDonnell*. Lorcet, Robaxin, Elavil. Serial PE's look boiler plate.

9-10-04 FCE. Inconsistent effort.

9-022-04 W Donovan, MD. Brief note. Lbp, bil legs. N. PE dec rom, no aj's, slr + bil 70 deg. Disco "clear evidence of hnp 45 and 51." M McDonnell, MD rec'd surgery 45 and 51. Not at MMI.

1-4-5 X-ray. S1 narrowing 45 and 51. Read by W Donovan.

1-6-5 J Grossman, MD, IM. DD.c/o lbp, inc walking/standing. Wekness. 8/10. Sketchy hx of the injury, treatment, distribution, etc. PE 5'7" 233 lbs. h/t/no Waddell/ rts/ dec sens pp R L5/ dec R kj/ mmt detailed all groups nl/no atrophy/ > good detailed exam. Dx: "diagnostic eval shows discogenic pain at L5-S1. She has been recommended for operative repair. On today's exam she has evidence of a right L5 radic consisting of dec sensation derm and loss of relevant reflexes." I don't agree. There's no dist, no description of injury, of treatments, of imaging, etc. Poor overall report.

1-13-05 S Esses, MD. OTJ 2002, was pulled by a dog while working in an Alzheimer unit. LBP, bil l T, leg and foot, R>L. Pain and N. PE 4/5 MMT throughout bil LE's. Slr – bilat.Recs updated imaging to see if surgical. 2002 MRI show mod bulge at 45., L>R. Bulge 51.

5-19-5 S Esses, MD. MRI desiccation at 45 and 51 + narrowing. Small hnp L 45. c/o lbp and bil leg. PE marked distress, neg RTS. No weakness. *Recs nonoperative tx, surgery would not be of benefit.*

8-9-5 UniMed letter of denial. Rationale: risk factors (obese, smoker, deconditioned), previous IRO surgery denial, three levels of degenerative changes, neurologically intact, no instability on flexion/extension X-rays, ACOEM guidelines ("there is no scientific evidence...of any form of surgical decompression or fusion for degenerative spondylosis...very seldom cures the patient."), OKU #2 Orthopedic Knowledge Update (fusion for degenerative conditions "...should be limited

to one, or at most two levels of disease.”), NEJM, Spine, Brox et al (other observations noted). Attempted to reach Dr. Francis who wasn't available and did not call back. 8-25-5 UniMed letter of denial. Rationale: Pt with chronic lbp and bil B and leg pain. Critical of the quality of H&P performed by RME (distribution of numbness not described, result of SLR not described, etc) documents discrepancies in the history, PE, and imaging findings. No documentation that L5S1 level is involved but recommends fusion. The discogram was performed incorrectly and probably would not have caused concordant pain at L5S1 if it had been. Inconsistent findings and symptoms recorded by different providers and uncorrelated findings make a recommendation for an intensive surgical procedure very suspect. The procedure is not medically necessary.

DISPUTED SERVICE(S)

Under dispute is the prospective, and/or concurrent, medical necessity of Anterior and posterior spine fusion L4-S1 with decompression.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

The Reviewer is in agreement with the UniMed physician advisor's report of 8-25-05. Including that report, at least two physicians have concluded that the imaging findings do not correlate with The Patient's symptoms and physical exam findings, and therefore, surgery is not indicated. One surgeon, Dr. S. Essess, who examined The Patient on more than one occasion, concluded that The Patient is not an operative candidate.

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 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: _____

Security Ins. Co. of Hartford/Cunningham Lindsey Us Inc.
Attn: Tom Lang
Fax: 512-452-7004

William Donovan
Fax: 713-759-0966

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 claimant's representative) and the DWC via facsimile, U.S. Postal Service or both on this 22nd day of November, 2005.

Name and Signature of IRO America Representative:

Sincerely,
IRO America Inc.

Dr. Roger Glenn Brown
President & Chief Resolutions Officer