

# IRO America Inc.

**An Independent Review Organization**

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April 12, 2006

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: \_\_\_\_\_

TDI-DWC #: \_\_\_\_\_

MDR Tracking #: M2-06-0892-01

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:

- MRI left shoulder, 09/06/00, 04/04/01
- Office visit, 10/02/00
- Office visits, Dr. Sullivan, 10/04/00, 10/23/00, 11/13/00, 12/11/00

- 01/15/01,
- MMI, Dr. Sullivan, 02/05/01
- Office visits, Dr. Malizzo, 04/06/01, 05/18/01, 10/18/02
- Office visits, Dr. Breazeale, 04/20/01, 05/04/01, 06/07/01, 06/21/01, 07/12/01, 08/24/01, 09/07/01, 10/03/01, 10/19/01, 11/02/01, 11/26/01, 12/17/01, 01/07/02, 01/28/02, 02/06/02, 03/08/02, 05/13/02, 07/05/02, 07/19/02, 08/07/02, 09/12/02, 11/11/02, 12/02/02, 01/02/03, 01/23/03, 02/07/03, 03/05/03, 04/04/03, 05/05/03, 06/04/03, 07/11/03, 08/01/03, 10/01/03, 12/05/03, 01/26/04, 03/03/04, 03/18/04, 05/05/04, 03/23/05, 04/20/05, 08/25/05, 09/15/05, 01/12/06, 02/13/06, 03/09/06
- Medical evaluation, Dr. Arora, 05/23/01
- Operative report, 05/31/01, 11/18/02
- Impairment rating, Dr. Molnar, 08/30/02
- Office visit, Dr. Krishnan, 06/03/04, 07/08/04, 08/19/04, 07/07/05, 01/10/06, 01/23/06
- Electrodiagnostic studies, 01/23/06
- Peer reviews, 02/01/06, 02/13/06

### **CLINICAL HISTORY**

The Patient is a 52 year old \_\_\_\_\_ injured on \_\_\_\_\_. She was diagnosed with left shoulder degenerative arthritis and subsequently underwent a left shoulder diagnostic arthroscopy and open acromioplasty on 10/16/00. She had continued difficulties and underwent an examination under anesthesia with diagnostic arthroscopy, extensive debridement of the joint including the labrum, glenoid, and humeral surfaces and debridement synovitis, subacromial scar tissue debridement, arthroscopic subacromial decompression with acromioplasty and arthroscopic distal clavicle resection on 05/31/01. On 11/18/02 she underwent a left pectoralis major transfer with separate semi tendinosis and gracilis interposition graft.

Postop treatment occurred with Dr. Breazeale throughout January 2003 and through December 2003. She returned to Dr. Breazeale's office on 01/26/04 with a progressive worsening of the left shoulder with progressively worsening scapular winging despite a home exercise and strengthening program. On exam there was a worsening of her winging to near pre-surgery levels. With shoulder bracing and pectoralis contraction, she was not able to stabilize and protect the scapula. She had discomfort over the superior angle of the scapula and moderate tenderness over the anterior acromion and discomfort with any active forward elevation.

Dr. Breazeale noted that The Patient was a candidate for a scapular fusion. On 03/03/04 The Patient indicated that her symptoms were worsening. On exam she had anterior acromial discomfort with attempts at forward elevation and active motion of the shoulder. There was marked scapular winging posteriorly and slightly medially at the inferior angle of the scapula. There was a prominence to the superior angle in the supraclavicular region which improved with manual relocation of the scapula. X-rays at that time showed no scapular mass. The inferior angle bone tunnel from the pectoralis transfer was intact with no compromise. There were minimal degenerative changes to the joint. Dr. Breazeale noted that The Patient may have a little spike of bone regrowth at the acromioclavicular region, but had ample distal clavicle resection. The impression was chronic left scapular winging with failed pectoralis major transfer and scapular fusion was again recommended.

On 03/18/04 The Patient saw Dr. Krishnan with complaints of pain at night on the lateral aspect of the left shoulder. She also reported numbness and tingling along the shoulder and neck area and could not sit comfortably without severe pain. Scapulothoracic kinetics showed a medial based winging with atrophy of the trapezius region. The trapezius did fire. There was

dysesthesia in the axillary nerve region with decreased sensation in an approximately 2 x 2 cm area in the midportion of the deltoid. X-rays reportedly showed Samilson stage I glenohumeral arthrosis and a significant ptosis of the left shoulder. A scapulothoracic fusion was again recommended. Treatment with Drs. Krishnan and Breazeale continued throughout 2004.

On 03/23/05 The Patient returned to Dr. Breazeale's office. With her arm at the side, there remained passive winging of the scapula at the inferior angle. She had active forward elevation of only about 20 percent and active abduction of about 20-25 degrees with reproduction of pain. All three heads of the deltoid were firing. There was moderate deltoid atrophy present. Fairly marked trapezius discomfort at the displaced superior angle of the scapula due to the winging was also present. The Patient returned to Dr. Krishnan's office on 07/07/05 with a lot of ptosis of the left shoulder. On exam she had significant ptosis of the shoulder with minimal firing of the deltoid compared to the previous visit a year prior. Obvious scapular winging was present. On 08/25/05 Dr. Breazeale documented that The Patient had no functional forward elevation, abduction or internal rotation due to intractable pain and an inability to control the scapula. On 09/15/05 The Patient had continued worsening of the left shoulder scapular discomfort. At that time she reported paresthesias down the mid and ulnar forearm and intermittent paresthesias down the ulnar forearm and into the digits.

The Patient was seen by Dr. Krishnan on 01/10/06. On that date he noted that EMG studies had been denied. On exam The Patient had no relief from the scapular stabilization maneuver which was different from her previous examinations. Dr. Krishnan noted that The Patient had a ptosis of the left shoulder, but also a significant trapezius bulging. The impression was neuropathic left upper extremity. Dr. Krishnan documented that at that point, he did not believe it was in The Patient's best interest to proceed with a scapulothoracic fusion. He indicated that The Patient needed an electromyogram to determine her neurologic status. Electrodiagnostic studies done on 01/23/06 revealed long thoracic neuropathy, severe, chronic, incomplete, axillary neuropathy, mild, chronic, incomplete and normal spinal accessory nerve studies. On 01/23/06 Dr. Krishnan documented that based on the electrodiagnostic studies The Patient's only option would be a scapulothoracic fusion on the left side.

Peer reviews completed on 02/01/06 and 02/13/06 denied the requested scapulothoracic fusion. On 03/09/06 Dr. Breazeale documented that The Patient had left scapular winging and prominence to the inferior medial angle of the scapula. The superior angle was imbedded in the trapezius and tender. All three heads of the deltoid were firing. X-rays at that time showed mild glenohumeral degenerative changes with some inferior spur and no significant interval change. Slight osteopenia was also seen. The drill hole at the inferior angle of the scapula from her pectoralis transfer was intact. The plan was for a left scapular thoracic fusion and continued pain management.

#### **DISPUTED SERVICE(S)**

Under dispute is the prospective, and/or concurrent medical necessity of Scapular fusion.

#### **DETERMINATION/DECISION**

The Reviewer disagrees with the determination of the insurance company.

## **RATIONALE/BASIS FOR THE DECISION**

It appears from this medical record The Patient was injured in \_\_\_\_ and since that time has had a number of different left shoulder procedures culminating in an 11/18/02 left pectoralis major transfer with interpositional grafting. Following this operative procedure she seemed to be getting better and Dr. Breazeale's notes seem to note improvement up through 01/26/04 when he noted progressive worsening and discussed scapular fusion. It is not clear how she was improving from 11/18/02 up through the early part of January 2004 when her conditioned changed and now he discusses surgery. Since that time The Patient has had ongoing scapular winging and pain and has received physical therapy and home exercises. She has a 01/23/06 EMG documenting long thoracic and axillary neuropathy which can give people difficulty with scapular function and pain. She has undergone two previous peer reviews of 02/01/06 and 02/13/06 where fusion was not recommended, and it appears at the time of the 02/13/06 peer review that physician spoke with Dr. Breazeale prior to that determination. The Patient continues to have complaints and limitation in function. The Patient was also seen by Dr. Krishnan on 01/10/06 who felt that she did not need a scapular thoracic fusion, but did in fact need to see an EMG. After this EMG was done Dr. Krishnan re-evaluated The Patient on 01/23/06 and felt that her only option would be a scapular thoracic fusion due to the EMG findings.

The Patient clearly has undergone previous operative procedures in an attempt to stabilize the scapula, which has not helped. Obviously treatment can be conservative using a sling and/or exercises to decrease their complaints, but The Patient has been through this without significant improvement. While scapular thoracic fusion does carry a significant complication risk, in light of The Patient's ongoing winging, pain and abnormal EMG results, it may in fact be the next option open to This Patient. Therefore, in light of The Patient's ongoing complaints and limitations in function, failure of previous appropriate treatment, and her abnormal EMG, The Reviewers medical assessment is that a scapular thoracic fusion would be medically necessary.

### **Screening Criteria**

#### 1. Specific:

- The Shoulder, 3<sup>rd</sup> edition: Rockwood, Matsen, Wirth, Lippitt: Chapter 17, page 1016

#### 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 Resolution Officer**

Cc: \_\_\_\_\_

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## **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 12<sup>th</sup> day of April, 2006.**

**Name and Signature of IRO America Representative:**

Sincerely  
**IRO America Inc.**

Dr. Roger Glenn Brown  
**President & Chief Resolution Officer**