

IRO America Inc.

An Independent Review Organization

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Amended May 12, 2006

May 9, 2006

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: _____

TDI-DWC #: _____

MDR Tracking #: _____

M2-06-0966-01

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:

- X-ray, right hip, 05/12/03
- X-ray, lumbar spine, 05/12/03
- Office visit, Dr. Vinge, 05/15/03, 05/21/03, 06/13/03, 07/03/03
- Evaluation for admission to rehab, 06/09/03
- Functional Capacity Evaluation, 06/09/03
- X-ray, left shoulder, 06/30/03

- MRI, cervical spine, 07/12/03
- MRI, lumbar spine, 07/12/03
- Designated doctor exam, 12/05/03
- Medical evaluation, 12/05/03
- Office visit, Dr. Boone, 12/09/03
- Office visit, Dr. Masel, 12/23/03, 02/03/04
- Independent Medical Evaluation, 02/20/04
- Physician's office records, 02/2004 to 09/2004
- Psychological evaluation report, 04/27/04
- Chiropractic evaluation, 06/21/05
- Dr. Berliner, 08/24/05, 01/19/06, 02/21/06
- Dr. Romagosa, 11/10/05
- Peer Review, Dr. Bayles, 01/27/06
- Peer Review, 02/17/06

CLINICAL HISTORY

This 46 year old male had a slip and fall injury in _____ and reportedly has had persistent neck pain since that time. An MRI of the cervical spine done on 07/12/03 showed a right sided disc protrusion at C5-6 as well as a left sided disc protrusion at C6-7 with mild spinal stenosis at C5-6 and C6-7. An EMG followed that was suggestive of C7 nerve root irritation on the left. The Patient was diagnosed with chronic cervical pain secondary to a cervical strain, herniated nucleus pulposus C5-6 and C6-7 and left C7 radiculopathy. The Patient has undergone conservative treatments that included medications, physical therapy and epidural steroid injections with continued symptomatology. An anterior cervical discectomy and fusion at C5-7 was recommended along with a bone growth stimulator.

The Patient worked a truck driver and was noted to have a past medical history of non-insulin dependent diabetes, hypercholesterolemia and mild hypertension for which he took medications. The Patient reportedly smoked a few cigarettes daily.

DISPUTED SERVICE(S)

Under dispute is the prospective, and/or concurrent medical necessity of anterior cervical discectomy fusion C5-7 and bone growth stimulator.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

The question posed was for the medical necessity for an anterior cervical discectomy and fusion at C5-6 and C6-7 with a bone growth stimulator. Based on the records reviewed this individual has had a lengthy history of neck as well as left arm pain. It makes reference to a positive Spurling test as well as diminished sensation of the left hand. There were subjective complaints of left arm pain. The Reviewer reviewed a neuro-radiographic finding of an MRI of the cervical spine dated 07/12/03. It has been nearly three years since that study. The Reviewer would not recommend surgical intervention based on an MRI that is nearly three years old. Current information from diagnostic studies would be appropriate to better formulate a surgical plan. The Reviewer's medical assessment is that surgical intervention is not medically indicated.

Screening Criteria

1. Specific:

- ACOEM Chapter 8 p. 180-181 .
- Official Disability Guidelines Fourth Edition Treatment in Worker's Compensation 2006 p. 1115

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: ACE American Ins.
Attn: Madeline Hershey
Fax: 210-348-8644

Kenneth Berliner
Attn: Brenda
Fax: 281-875-3285

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 9th day of May, 2006.

Name and Signature of IRO America Representative:

Sincerely
IRO America Inc.

Dr. Roger Glenn Brown
President & Chief Resolution Officer