

P – IRO

An Independent Review Organization
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December 20, 2005

TDI-DWC Medical Dispute Resolution
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Delivered via Fax

Patient / Injured Employee _____
TDI-DWC # _____
MDR Tracking #: M2-06-0123-01
IRO #: 5312

P-IRO, Inc. has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI-Division of Worker's Compensation (DWC) has assigned this case to P-IRO for independent review in accordance with DWC Rule 133.308 which allows for medical dispute resolution by an IRO.

P-IRO 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. This case was reviewed by a licensed MD board certified and specialized in Orthopedic Surgery. The reviewer is on the DWC Approved Doctor List (ADL). The P-IRO 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, information provided by The Requestor, Respondent, and Treating Doctor(s), including:

Dr. Miller, DC report 08/20/03
X-rays lumbosacral spine 08/20/03
MRI lumbar spine 09/24/03
NCV lower extremity 10/03/03
Ultrasound exam 10/07/03
Somatosensory evoked potential lower extremity 10/07/03

Dermatomal somatosensory evoked potential lower extremity 10/7/03
Office notes of Dr. Williams 11/20/03
Operative reports 02/05/04, 02/19/04, 03/04/04
DDE with Dr. Shropulos 04/28/04
Report of medical evaluation
EMG/NCV studies 05/05/04
Office notes Dr. Vaughan 08/12/04, 11/30/04
Chiropractic note 08/19/04
Progress evaluation 09/08/04
Progress evaluations 12/29/04 and 01/26/05
Lumbar myelogram 01/28/05
DDE with Dr. Shropulos 02/16/05

CLINICAL HISTORY

The Patient is a 26-year-old male who on ___ developed severe low back pain while lifting greater than 100 pounds of metal struts. Dr. Miller evaluated The Patient on 08/20/03 and indicated that post injury he developed numbness in the right leg. During the evaluation, he complained of low back pain, numbness in the right leg, increased pain with movement, stiffness in the low back, burning sensation, swelling in the low back and loss of sleep. The examination indicated that he was clearly in moderate discomfort. Most of his significant pain was generalized around the lumbar spine, there was an antalgic gait and he had pain with getting up onto and off the table. He continued treating with chiropractics. X-rays of the lumbosacral spine performed on 08/20/03 revealed no evidence of acute fracture. The postural/biomechanical alterations included: pelvic unleveling, low on the right, shallow right lumbar convexity suggestive of paravertebral muscle spasm, increase in lumbar lordosis, and global restriction in overall lumbar flexion and extension. An MRI of the lumbar spine obtained on 09/24/03 showed at L5-S1 disc desiccation with a 2 mm posterolateral protrusion which effaced the ventral surface of the thecal sac. NCV studies of the lower extremities of 10/03/03 were normal.

An ultrasound of 10/07/03 showed facet area inflammation at L1-L5 and sacroiliac joint area inflammation. Somatosensory and dermatomal somatosensory studies were normal. The Patient was evaluated by neurosurgeon, Dr. Williams on 11/20/03 with complaints of primarily low back and bilateral leg pain, aggravated by sitting, standing, walking, lifting, pushing, pulling, bending, driving and coughing. He walked pretty well on his heels and toes, but had some back pain. Straight leg raise was basically negative bilaterally and certainly negative in a sitting position. He was diagnosed with lumbosacral strain without any definite evidence of nerve root compression or herniated disc. Dr. Williams indicated that there was no indication for myelography or surgery at that time.

He underwent a series of three SI joint injections between 02/05/04 and 03/04/04. It was noted that a functional capacity evaluation of 02/17/04 noted him to be performing at a light level of demand, which was not available. Dr. Shropulos saw The Patient on 04/28/04 with continued complaints including low back radiating into the right leg with numbness in the right arm. He had tenderness to palpation of L5-S1, spasms with palpation of the paravertebral muscles at L1-S1. Supine straight leg raise was positive bilaterally and sitting was positive on the right. Babinski was positive, reflexes 3 at the patellar and Achilles, decreased range of motion of the hips bilaterally, moderately decreased right lateral femoral and cutaneous nerves, 2/5 myotome testing bilaterally and the ability to heel/toe walk with difficulty. He was deemed not at MMI and recommended work hardening.

EMG/NCV studies of 05/05/04 were normal. Dr. Vaughn evaluated The Patient on 08/12/04 with complaints of severe mechanical low back and radicular pain down the right leg as far as the foot; equal back and leg pain and sometimes lesser pain in the left leg, worse with coughing and straining and interfered with sleep and activities of daily living. Lumbar motion was 30 percent of normal flexion, extension and side bending with most pain with flexion. Straight leg raise was 80 bilaterally with negative Lasegue sign and some sensory changes in the right L5-S1 distribution. A lumbar discogram was recommended and later denied. The lumbar myelogram of 01/28/05 revealed minimal ventral extradural impression at L4-5 and no canal stenosis or nerve root amputation. The post myelogram CT showed mild bulges at L3-4, L4-5 and L5-S1, small focal protrusion into the right inferior foramen at L3-4, adequate central canal and foramina throughout without loss of height or alignment. A functional capacity evaluation of 06/15/04 noted that The Patient was functioning at the medium level. The exam noted positive Kernig, Patrick/Fabere and Babinski tests and moderately decreased testing of the lumbar spine dermatomes at L5 on the left, however, mildly decreased on the right. He was able to heel/toe walk without difficulty. He was still not at MMI and had one positive Waddell sign.

Dr. Schade evaluated The Patient on 03/23/05 with overall moderate increase in severity of his pain since the injury, aching in the entire right lower extremity, which was intermittent and less than the right, numbness in the entire right lower extremity with weakness and giving out of the leg occasionally as well as insomnia, anxiety, depression with suicidal thoughts. The exam noted a normal gait, tenderness in the midline of L3, 4 and 5, a positive straight leg raise on the right, negative on the left, sciatic notch tenderness bilaterally and hypoesthesia in the thigh on the right. The impression was lumbar radicular syndrome with bilateral sciatica with bulging disc at L3-4, L4-5 and L5-S1. Behavior therapy was advised as well as Effexor and increasing his Norco.

Dr. Henderson saw The Patient on 05/13/05 with continued symptoms. X-rays including AP, lateral, flexion and extension that day showed five lumbar vertebral bodies, spina bifida occulta at S1, tropism of the bilateral facets at L5-S1, no gross instability, and disc space narrowing at L5-S1. He was a candidate for possible anterior lumbar interbody fusion versus potential candidate for artificial disc replacement. Discography or repeat MRI then discography were advised. This was denied. Surgery was recommended and denied by peer reviews on 08/30/05 and 09/20/05. A functional capacity evaluation of 08/30/05 indicated that he was performing in the light/medium level of demand and recommended work hardening.

DISPUTED SERVICE (S)

Under dispute is the prospective and/or concurrent medical necessity of Anterior interbody fusion L5-S1, retroperitoneal exposure and discectomy L5-S1, anterior interbody fixation, L5-S1 posterior decompression L5-S1, transverse process fusion L5-S1, posterior internal fixation L5-S1, bone graft, allograft bone graft, autograft in situ bone graft, autograft iliac crest bone marrow aspirate.

DETERMINATION / DECISION

The Reviewer agrees with the determination of the insurance carrier.

RATIONALE/BASIS FOR THE DECISION

The Patient is now more than two years post injury. He has continued complaints relative to the lumbar spine and lower extremity. The Patient has discogenic pain which will not be effectively treated with this intervention. There is also no evidence of instability or nerve root compression and nothing to suggest the need for discectomy or fusion. Therefore, The Reviewer cannot recommend the proposed anterior interbody fusion L5-S1, retroperitoneal exposure and

discectomy L5-S1, anterior interbody fixation, L5-S1 posterior decompression L5-S1, transverse process fusion L5-S1, posterior internal fixation L5-S1, bone graft, allograft bone graft, autograft in situ bone graft, autograft iliac crest bone marrow aspirate as medically necessary and therefore agrees with the prior determinations.

Screening Criteria

1. Specific:

ACOEM guidelines, Chapter 12, pages 307 and 310

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 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.

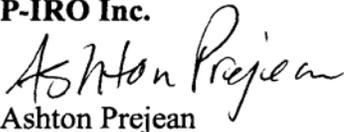
CERTIFICATION BY OFFICER

P-IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. P-IRO has made no determinations regarding benefits available under the injured employee's policy.

As an officer of P-IRO Inc., I certify that there is no known conflict between the Reviewer, P-IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

P-IRO 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,
P-IRO Inc.



Ashton Prejean

President & Chief Resolutions Officer

Cc: Robert Henderson Harford Underwriters Ins.
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Fax: 214-688-0359 Fax: 512-343-6836

Marsha Miller, DC
Fax: 210-275-4408

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.

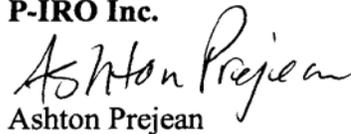
If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the 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 20st day of December, 2005.

Name and Signature of P-IRO Representative:

Sincerely,
P-IRO Inc.



Ashton Prejean

President & Chief Resolutions Officer