

IRO America Inc.

An Independent Review Organization

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November 30, 2005

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: _____

TDI-DWC #: _____

MDR Tracking #: M2-06-0182-01

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 lumbar spine 09/18/03

MRI lumbar spine 08/06/04

Office note of Dr. Smith 08/25/04

Office note of Dr. Spier 09/14/04

IME with Dr. George 12/06/04

Maximum medical improvement evaluation and impairment rating by Dr. Whitehead 04/19/05

Discogram 05/25/05

Office note of Dr. Henderson 06/22/05
Office note of Dr. Agostino 08/10/05
Peer review by Dr. Trafimow 09/06/05, 09/21/05
Impairment evaluation by Dr. Hollander 10/04/05

CLINICAL HISTORY

This 23-year old male was injured on ___ when he was pulling on a strap and felt something pop in his back. X-ray of the lumbar spine on 09/18/03 was normal. The 08/06/04 MRI of the lumbar spine showed degenerative disc disease at levels L4-5 and L5-S1. At L4-5 there was a central and left posterolateral disc protrusion mild in degree which indented the dural sac. At this level it might affect the left L5 nerve root. At L5-S1 there was a moderate size central disc protrusion which had mild mass effect on the left S1 nerve root.

The Patient was evaluated by Dr. Smith on 08/25/04 for severe low back pain with radiation into the legs, left greater than right. He was neurologically intact on exam. The diagnosis was mechanical low back pain with radiculitis. Discography was recommended.

At a 09/14/04 evaluation with Dr. Spier, The Patient had low back and bilateral leg pain, primarily right sided. The Patient had decreased reflexes on the right and positive straight leg raise worse on the right. Several more independent evaluations and MMI evaluations were performed by various physicians documenting low back and right lower extremity symptoms. The Patient was neurologically intact and discography was recommended.

On 05/25/05 a discogram was done at L4-5 and L5-S1 that was positive for concordant pain at L4-5 with evidence of annular tear. At L5-S1 there was a posterior fissure but no pain was reproduced. On 06/22/05 Dr. Henderson evaluated The Patient. He noted that flexion/extension x-rays were done on 06/21/05 and showed probable foraminal narrowing at L5-S1 and disc space narrowing at L5-S1 and L4-5. On exam reflexes were intact; straight leg raise was negative on the right but there was some tightness on the left with a positive Lasègue behind the left thigh. Motor strength was 5/5. The impression was spondylosis L4-5 and L5-S1 and discogenic pain at L4-5.

A lumbar epidural steroid injection was given on 08/10/05 and provided no relief of his symptoms. On 08/24/05 Dr. Henderson felt that The Patient was a surgical candidate and recommended anterior L4-S1 fusion. Surgery was denied on peer review.

DISPUTED SERVICE(S)

Under dispute is the prospective, and/or concurrent medical necessity of Anterior lumbar interbody fusion/discectomy L4-S1.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

The Reviewer agrees with the determination of the insurance carrier. The Reviewer would not recommend approval of the anterior lumbar interbody fusion as being medically necessary. There is no evidence in the records of any instability for this claimant. He has purely discogenic pain and according to ACOEM guidelines discogenic pain is not a good indicator for surgical intervention. In the absence of instability of the spine, surgical fusion is not always

effective for symptom relief. Based on the information available, The Reviewer do not see that surgery will significantly improve this Patient's condition and in fact probably would make him worse.

Screening Criteria

1. Specific:

ACOEM (2004). Low back complaints. Occupational Medicine Practice Guidelines. L. S. Glass. Beverly Farms, MA, OEM Press: Chapter 12, p. 305, 307, 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 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]

Royce Bicklein
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Zurich American Ins
Attn: Katie Foster
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Carl Thomas Jr. Davidson Fax: 432-332-2446

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 30th day of November 2005.

Name and Signature of IRO America Representative:

Sincerely,

IRO America Inc.



Dr. Roger Glenn Brown

President & Chief Resolutions Officer