

# P-IRO

An Independent Review Organization  
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December 16, 2005

TDI-DWC Medical Dispute Resolution  
Fax: (512) 804-4868

Delivered via Fax

Patient / Injured Employee \_\_\_\_\_  
TDI-DWC # \_\_\_\_\_  
MDR Tracking #: M2-06-0242-01  
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: 3-13-3 Concentra, Bowland, PA3-21-3 MRI lumbar spine5-22-3 Hudgins, MD, neurosurgeon7-31-3 CT8-27-3 Myelo/CT. 9-15-3 Cruz, MD, EMG1-6-4 Jacko, MD1-2-5 Shah, MD6-23-04 Concentra PT2-8-5 De Jesus, Churchill Evaluation Centers6-29-05 MRI7-18-5 Bauer, MD. Spine surgeon8-15-5 Forte Letter of Denial9-2-05 Forte Letter of denial.

## CLINICAL HISTORY

**OTJ 3-3-3.** Vehicle inspection tech.

**3-13-3 Concentra, Bowland, PA.** Bending, lifting > lb, hip and leg. L to foot and toes. 8/10. PSH neg. PE neg neuro, NO Waddell. XR neg. DX sacroiliac strain. NSIAD, PT(x several incl McK, DCd 3-25-3). No work x 4 d.

**3-21-3 MRI lumbar spine.** Abnormalities at all levels x 34. 1-2: mod degen change, osteophytes. 23: degen disc, L hnp > mild central st, and L lat recess; 45 facet degen; 5-1 disc dessiccation! No mention of nerve compromise.

**4-2-3 Concentra, Bowland, PA.** Better 3.5/10. No Waddells. Radicular pain with sitting. Dx SI strain, and radic. Vioxx, PT (several more visits, compliant, good effort), hep

**4-11-3 Concentra, Bowland, PA.** 85% better. No work.

**4-18-3 Concentra, Bowland, PA.** 90% better. Radic resolved. Neuro neg, no Waddell. No work, no LD available. More PT notes, active ther ex.

**5-22-3 Hudgins, MD, neurosurgeon.** Lb about L3, L B, L T, N L otes 4&5. Constant, inc sitting, standing. PMH nerve injury in arms from Agent Orange. PE: mild pain, sl dec flx, slr L 85-90 deg with dors, dec L kj, no weak, nl sensory. MRI small hnd 23 L, degen disc multi levels x 34 and 45. DX symptomatic hnp L23 L [but doesn't doc left L3 nerve root dist, only dec L kj]. Rec weekly traction [done in his office] or LL&D 23 L. No po, no esi.

**5-27-3 Concentra, Bowland PA.** Ref to ortho. Neuro neg. "Still with radci pain" no dist.

**7-16-3 Hudgins office, Glass, PA.** No better with traction. Rec LL&D L 23.

**7-31-3 CT.** 23: bulging, mild facet r; 12: bulging; 51: facets; SIJs: mild degen

**8-15-3 Hudgins.** CT shows improvement. c/o L with N no weak.[no dist]. DX symptomatic hnp worse with WB. Exhasuted nonsurg Had esis.

**8-27-3 Myelo/CT.** 23 bulge and R facet; degen disc 12; facets 51;

**9-15-3 Cruz, MD, EMG.** Normal.

**9-8-3 Hudgins.** M/CT: bules 12, 23. No HNP therefore no longer recs surgery. Rec EMG.

**10-2-3. H.** EMG neg. Nothing seriously wrong > no rec for surgery. Rec consultation, dis determination.

**1-6-4 Jacko, MD.** Lbp, no mention of leg. PE dec rom, no motor weak, dtrs. No mention of sens. Brief exam. Rec repeat mdp, esi.

**1-2-5 Shah, MD.** @nd esi no help. DDD coming up. MRI 9-04 with flx/ext: retro 12 and 23, facets 45, 51 bulge. Annular tear L 45 disc. M/CT facets bulge, facet cyst R 23. MR 3-03 DD 23, facets 45 and 51. PT, meds, trxn, esi. Not rtw yet. PE: antalg, dec rom, flip + L, vasc ok, SLR + L, sens ok, motor ok, dtrs dec bilat. DX radic probably L 5 and 1. Discogenci back pain (tear 45). Rec disco, poss IDET or perc disc. Neurontin.

**3-15-4 Concentra.** Dx per ortho is discogenic, but ortho doesn't think good surg candidate. L B, l L T, N 1-3 toes L. PE: avoids weight bear L F and hip. Neuro neg. DX discogenic lbp, radic. No work, more PT. Vioxx.No LD.

**4-22-4 Cable, MD, Designated Doctor.** Lbp, L B, L T. L l T. Inc sitting and standing.. Multiple nonsurg. PE: dec rom, flx inc left leg, ext helps, absent dtrs, dec sens l C, mmt ok, rts neg, . DX radic. Rec PT Thinks pt **may be a surgical candidate. Rec disco.**

**6-23-04 Concentra PT.** ? Waddell's. Several notes. Good effort.

**8-2-4 Bowland.** L leg to F. Inc flx activities. Neuro nl.

**10-6-4 Shah. PM&R.** lb, L leg B, 1 C. N 2 and 3. Dec rom, nl sens, motor nl, absent dtrs, DX radic L 5 and 1. Has 45 annular tear irritatiin L 5 and 1. Consider TFESI. No rtw.

**11-17-4 Shah.** ESI left L5S1. Several notes by Shah.

**12-22-4 Shah.** ESI left 51. More notes by Bowland, Concentra.

**2-8-5 De Jesus, Churchill Evaluation Centers.** 10% MMI in March 03. DX left 51 radic. 10% MMI.

**6-22-5 Shah.** Lbp bil legs pTs to Ks. After a bouncy car ride. N fist tow toes. PE Dec rom, detailed neuro ok. Rec MRI and Xr.esi.

**6-29-05 MRI.** Mild degen disc changes all levels

**7-18-5 Bauer, MD. Spine surgeon.** No Waddell. C/o lb, 1 Ts, N toes of both feet. Pts symptoms correspond with imaging findings at 12 and 23. Rec disco. No psych issues. Cites NASS guideline for using disco. If disco, then fuse 1 or 2 levels, not >2. **Rec disco** because: endorsed by NASS Phase III guidelines, failed tx, s/s > 6 months, lack pf psych,.

**7-28-5 Shah.** ESI.

**8-1-5 Bauer.** Same as 7-18.

**8-3-5 Shah. Requests 4 level disco.**

**8-15-5 Forte Letter of Denial.** Discography is unreliable as a study to predict source of pain in Worker's compensation cases. Cites Carragee, "...casts significant doubt...on the validity of discography" (cites single author of 4 studies). Arthrodesis has a poor success rate when used to treat back pain...degenerative disease (cites single article by Herkowitz, 1995). Discography should never be done unless there are surgical indicators...which this gentleman does not have."

**8-25-5 Shah.** Lbp into groin and testicles and posterior legs.

**9-2-05 Forte Letter of denial.** Same argument as the 8-15-05 letter.

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

Under dispute is the prospective and/or concurrent medical necessity of Outpatient Lumbar Discogram L1-2, L2-3, L3-4, and L4-5 Discography.

#### **DETERMINATION / DECISION**

The Reviewer disagrees with the determination of the insurance carrier.

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

The Carrier's physician reviewer states that it has been established that discography is an unreliable test in worker's compensation cases. However, while Dr. Carragee has published research casting doubt on discography's efficacy in this situation, there are a number of equally thoughtful researchers who disagree. Discography is controversial, but there is not yet a preponderance of evidence against its use, and in fact there is research justifying its use. Dr. Bauer's note of 7-18-5 is a good summary of the case in favor of discography, and the patient fits the NASS criteria for discography. Multiple providers have recommended discography for this Patient. These providers have reviewed records, taken a history, and performed a physical exam on this Patient.

## Screening Criteria

### 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.

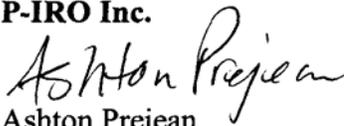
### **CERTIFICATION BY OFFICER**

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: State Office of Risk Management  
Attn: Jennifer Dawson  
Fax: 512-370-9170

Mike Shan  
Fax: 972-499-4267

### **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.

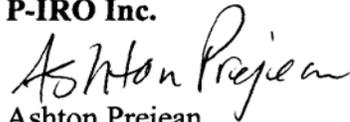
The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

**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 16<sup>st</sup> day of December 2005.**

**Name and Signature of P-IRO Representative:**

Sincerely,

**P-IRO Inc.**



Ashton Prejean

**President & Chief Resolutions Officer**