

IRO America Inc.

An Independent Review Organization

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Amended January 20, 2006

January 9, 2006

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: _____

TDI-DWC #: _____

MDR Tracking #: M2-06-0268-01

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).

CLINICAL HISTORY

DOI ____

9-15-4 MRI. Reversal of nl lordosis. Bil pl osteophyte/disc narrowing of lat recesses and foramina, most severe at 56, less severe at 45, 67, and 34.

9-17-4 Tiongson, MD. c/o neck, head L sh. OTJ 6-18-04. Hit R head on iron brace. N fingertips L thumb and index finger. Inc ROM. 8/10. MRI 9-15-04 bil osteophytic form and lat recs t 45 thru 67, worse at 56 "severe". PE dec rom/tender and spasm/ MMT ok/sens ok/dtrs/ no Spurlings done. DX contusion head/facet arthropathy/cervical myofascitis.

10-28-4 Tiongson, MD. c/o pain radiates down upper left arm. N first second and third fingers left hand. = C6 and 7. PE dec rom, spasms, neuro nl. Rec PT and meds. Multiple notes, consistent c/o. 80% neck, 20% arm pain. 8/10. Referral to surgeon. Later 70/30. EMG planned.

DX 7-7-5 is cervical radiculopathy, L C5 nr. 8-4-5 PE dec sens L C5 derm. Notes thru 11-03-5.

1-28-05 Poquiz, MD. DD. DC treatment. HEP. Also tx for tinnitus and hearing loss but not necessarily result of injury. PE: g/foram comp test/no spasm/dec rom with full effort/sens/dtrs/mmt/ good thorough exam. Establishes MMI on 1-28-5. 12%. Does not explain why no more treatment is indicated.

3-1-5 Yeh, MD. Neck and rad L hand. Inc cough, walk, run, driving, bending. PE thorough. MRI as in report. DX spondylosis with myelopathy, displacement of cervical disc without myelopathy. A lot of dxs. Discussion: spine surgery considered because of intractable pain correlating with a surgical lesion/motor weakness with correlating surgical lesion/lesion poses a risk to pts neurological well being. . Pt cannot live with it any longer. [No dist in arm and hand noted.] Rec 3 level proc 45 to 67. Does not explain how he correlates the patients symptoms with PE or imaging. Does not document intractable pain. Neck is the predominate region of pain. EMG not available for review. [I think that he fails to correlate symptoms, PE and imaging.]

3-22-05 Texas Mutual letter of denial. NASS does not support 4 level proc. But reviewer was incorrect, a 3 level proc was requested.

4-11-5 Texas Mutual letter of denial. No evidence of myelopathy or other neural findings on pe. Psych = chronic pain behavior.

6-9-5 Proler, MD, EMG. C/O radicular symptoms L arm into fingers. PE dec sens L 5 and 6 derms. Weakness of L biceps and brachrad muscles. EMG dx is acute C5 radic L.

7-11-5 Texas Mutual letter of denial. + emg C5. Dec sens L 5 and 6. MRI too old, new imaging with F/E needed = ct/m needed.

7-29-5 CT. mild to mod spondylosis 56 and 67. No mention of nerve roots.

9-1-5 Tiongson, MD. Neck rad L arm and forearm. Dec sens L C5.

9-27-05 Texas Mutual letter of denial. CT myelo no mention of spinal stenosis just 56 and 67 spondylosis. EMG C5 radic findings. Yeh PE basicall normal. See no reason for surgery requested, pt not with radic nor meylotathy.

11-29-5 Texas Mutual, letter of carrier's response to dispute: MRI 9-15-4 showed bilat osteophyte/disc narrowing of lat recesses most severe at C56 and less severe at C45, 67, and 34. DD 1-28-5 DD Poquiz pt at MMI, 12%. Dr. Yeh on 3-1-5 imr: "severe cervical stenosis" recd ACDF 45 thru 67. Advisor, "rec surgery not supported by NASS" and "no evidence of myelo or other neuro on PE. Psy = chronic pain behavior, memory loss, anxiety. EMG + L 6-9-5. Later preauth request denied because although EMG + for acute L C5 radic, the new PE exam of dec sens L56 was not correlated with old PE. CT 7-29-5 "mild to mod pl spondylosis at both C56 and C67." Subsequent denial because "CT without mention of spinal stenosis, just spondylosis...pt not with radic."

9-6-5 Texas Mutual letter of denial. CT does not describe stenosis in the levels requested for surgery. PE normal."

9-27-05 Texas Mutual letter of denial. Pt has no radiculopathy or myelopathy (normal physical, EDX C5 radicular findings, CT/myelo no stenosis, just C5/6 and C6/7 spondylosis).

DISPUTED SERVICE(S)

Under dispute is the prospective, and/or concurrent medical necessity of anterior cervical decompressive discectomy and arthodesis with instrumentation at levels C4/5, C5/6, and C6/7 with 1 day admission.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

Although the physician advisor(s) made several errors in their letters of denial (“absence of cervical radiculopathy” in the presence of positive EMG/findings of C6 and C7 numbness on PE/radicular pain complaints; that Dr. Yeh requested a four level procedure when he requested a three level procedure; and the imaging study of 7-29-05 was a myelogram/CT when it was a CT without myelography), Dr. Yeh failed to justify a 3 level procedure by failing to document symptoms and/or physical exam findings consistent with 3 level disease. Although his initial office note states the criteria for justifying surgery, he failed to meet any of his three criteria.

Screening Criteria

1. 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: _____

Peter Yeh
Attn: Shanie
Fax: 713-661-5535

Texas Mutual Ins. Co.
Attn: Latrice Giles
Fax: 512-404-3980

Pedro Lozano
Fax: 709-621-2844

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 January, 2005.

Name and Signature of IRO America Representative:

Sincerely,

IRO America Inc.

A handwritten signature in black ink, appearing to read "Roger Glenn Brown", with a long horizontal flourish extending to the right.

Dr. Roger Glenn Brown

President & Chief Resolutions Officer