

# P-IRO

An Independent Review Organization  
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January 24, 2006

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

Delivered via Fax

Patient / Injured Employee	_____
TDI-DWC #	_____
MDR Tracking #:	M2-06-0423-01
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 M.D. 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).

## **CLINICAL HISTORY**

DOI August 2004.

8-11-4 B Sanchez, MD. (PMP) OTJ lbp and Right leg. PE: + slr R 20/sens/slight decrease to motor input R ???/ [no dtrs, g/h/t, mmt, Wadd, etc]. DX cervical/thoracic/lumbar myofasciitis, and lumbar strain. Rec MRI, EMG, M, Vic, Flx, rtc 1 mo.

8-12-4 Houston Heights Pain and Injury clinic. Dr. Bui, DC. c/o lbp and R leg. Had shoulder and midback as well. Many notes (~30), documents L leg as well. Last note 6-9-5, pantyhose pattern of lbp and leg, 9/10. Plans more passive care! Bike, treadmill.

8-26-4 MRI. DD 45 with 3mm prot/herniation. 51: dd, broad L prot 3 mm, No nr. Mild facet.

9-1-4 D Nickamp, DC, Concentra Peer Review (med records only). DC x 4, PT, Med record review: Right Leg symptoms and signs, . Supports causal relationship with injury. Supports ODG recs of time limited treatment.

9-8-4 B Sanchez, MD. No more R. Occ twinge of lbp, Wants to rtw. Neg slr, full rom. Plan rtw light. MRI pending.

9-15-4 Sanchez: RTWLD but inc pain in lb. c/o pain and N L. MRI prot 45 and L 51. No work, rec ESIs and PT. Several more notes: 90% better, PT. 1/10. Rec finish PT then FCE, then RTW.

10-29-4 Niekamp, DC, IME. HX: otj, bil leg tingling immed, DC passive, esi, . C/O lbp 7/10, inc bending/lifting/sit/walk. Lbp, bil pT, pC to F. No leg pain, only N. PE: speaks little English/mild/questionable max effort with rom/ slr lbp 20 deg/flip + bil leg/h and t with signif difficulties/extremely pain focused/multiple Waddells/. MRI: 34 and 51 prot. DX: lbp with significant non-organic pe, symptom mag. Rec 2<sup>nd</sup> esi, No more therapy unless closer to home. Rec EDX. If no better , then ortho surgery consult [!!! but no mention of contraindication with psych issues]. Psych: has sympt mag, *these pts "have poor prog and do not do well with any treatment"* and rec psych eval [but recs surgery consult!].

12-6-4 Temenos Psychotherapy. (PMP). Rec WHP. No rec further psych services.

12-8-4 Optimum, FCE. Currently light to medium ok. Significant elevations of D and anxiety>psych consult. Rec WHP with psych. Valid effort.

1-11-5 Lindale HealthCare Clinic (WHP). Multiple notes. Discharged 1-26-5, lifting 35-50#.

2-11-5 Victor Guerrero, MD, DD. PT, WHP, injection x 2. MRI DD 45 with prot/hnp. 51 dd L prot/hnp. FCE 12-8-4 = light to medium performance level. No work since otj. M, flxeril, Vic. C/O lbp, epi, No c/o leg noted. PE: g/detailed/ rts/ rom/ sens/ dtrs/ circ/ h/t. Opinion: MMI 2-11-05, 5% IR.

5-2-5 MRI: 45 annular tear, HIZ. 3-4 mm broad, no nr. 51: 4 mm broad central and L bulge. S1 nr contacted. Mod foram bil L>R contact of L5 nr.

5-2-5 MRI addendum. Comparison with report MRI 2004. New scan disc prot 51 is slightly larger, new annular tear 45, 34 level normal now, but in 2004 was a central prot.

5-24-5 EMG M Proler, MD. + radic L L5, S1, and possibly L4.

5-25-5 Sanchez. PT. L>R. lbp. Recent MRI different that 2/2004. Pain 9/10. Plan: Lortab, M800, Ambien, rec esi, if no better then ortho consult.

6-9-5 Neikamp, DC, RME. Hx. PE: multiple Waddell. MRI: reviews these films with Joon Lee!!!. +EMG. Dx: symptom magnification, Disc prot 51 but improved cf previous mri, radiculopathy bil L>R. Further DC unnecessary. ESI ok. Rec esi, if no better then ortho consult for poss myelogram. No rtw.

6-14-05 Lindale Clinic. c/o lbp, bil, left thoracic.

9-20-5 Richard Francis, MD initial OV. Slipped carrying heavy box chickens. Back pop. Next day inc lbp and L pain and N. Back>leg. L radiating pain and N to calf. Weakness. LBP inc bending, and extension. No R. MRI report tear 45 and 3-4 broad protrusion. 51 4mm broad contacting L S1 nr an contat of L5 ganglion (? side). Nonsurg: PT X 1 year, strengthening, modalities, ESI x 2 short relief. EMG + L 5 and 1 radics. PE: Inc flx and ext/ no inappropriate pe findings/ lsr + L, neg R/ no weakness/ dec sens L lat C. No dtr's records. Imaging: XR + f/e: mild narrowing 45 and 51. DX Internal disc distruption 45, L lumbar radic, discogenic lbp. Failed nonsurg x 1 year, no (Waddell), highly motivated, back>leg therefore needs fusion and decompression. No mention of disco.

10-05-05 Sedgwich CMS Letter of Denial: there is no spinal instability. A two level fusion is not likely to benefit this 35 year old. Other conservative treatment should be tried first. Reviewer Charles Graham, MD.Ortho.

10-13-5 Sedgwick CMS Letter of Denial: there is no evidence of spinal instability which would be necessary to justify a fusion. Has bulges of 4-5 and 5-1, and electrodiagnostic evidence of radic left L5 and left S1. A spinal fusion is too drastic a step in a 34 year old in absence of instability. A fusion can always be added. Reviewer Dr. Ricahrd Dix, MD, ortho.

12-20-5 records supplied by Downs, Stanford PC, attorneys.

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

Under dispute is the prospective and/or concurrent medical necessity of Anterior/posterior fusion L4-S1, decompression Left L5-S1, ICBG, CORLOC, LSO brace, bone stumulator, cryo unit rental X 10 days.

### **DETERMINATION / DECISION**

The Reviewer agrees with the determination of the insurance carrier.

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

The two physician advisors deny the fusion because of the lack of instability on the imaging tests, the argument being that fusion is only indicated in the presence of instability. That argument is controversial and is not universally accepted as standard of care.

The reasons for denial of surgery at this time include the presence of multiple risk factors for delayed recovery (presence of Waddell signs, depression, anxiety, lack of a vocational plan, lack of documented patient education for this non-English speaking patient), and the failure to demonstrate the pain generator (the surgeon assumes that both discs are causing pain, but The Patient has not had provocative discography, and the nerve root involvement on MRI is subtle).

### **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.

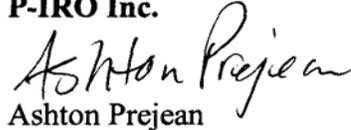
### **CERTIFICATION BY OFFICER**

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: American Home Assurance c/o Downs & Stanford, P.C.  
Attn: W. Jon Grove  
Fax: 214-748-4530

Dr. Bui  
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### **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.

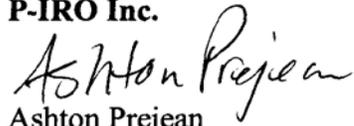
The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

**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 24<sup>th</sup> day of January, 2006.**

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

Sincerely,

**P-IRO Inc.**

A handwritten signature in cursive script that reads "Ashton Prejean".

Ashton Prejean

**President & Chief Resolutions Officer**