IRO America Inc.

An Independent Review Organization
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August 23, 2006

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

Patient:	____
TDI-DWC #:	____
MDR Tracking #:	M2-06-1749-01
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 but not limited to:

- Office note, Dr. Frazier, 03/25/03, 08/15/03, 01/06/04, 07/22/04, 01/05/06 and 05/31/06
- Office note, MRI reviewed, 04/11/03
- Office notes, provider unknown, 05/09/03, 08/26/04, 11/11/04, 01/13/05, 02/09/05, 03/09/05, 04/11/05, 05/11/05, 06/08/05 and 09/30/05
- Lumbar epidural steroid injection, 10/22/03, 12/03/03, 12/31/03, 05/25/05 and 08/17/05
- Consult, Dr. Guess, 01/14/04
- MRI, 02/07/06

- Office note, Dr. Guess, 03/01/06 and 06/14/06
- Lumbar myelogram, 06/07/06
- Peer review, 06/19/06 and 06/29/06

CLINICAL HISTORY

The Patient is a 44-year-old female, a smoker, with a history of previous lumbar surgery in 1999 for a right L5- S1 discectomy. She presented on 03/25/03 with complaints of progressive low back pain and right lower extremity pain. An MRI review noted some epidural postoperative fibrosis at L5-S1. The Patient underwent a series of lumbar epidural steroid injections in late 2003

An office visit on 01/06/04 with Dr. Frazier noted no relief from the injections. The Patient continued with pain into the right buttock and right hamstring with tingling in the right foot and toes. Clinical findings noted pain with forward flexion and a burning sensation down the hamstring area. Sensation, strength and reflexes were intact bilaterally. A surgical consultation was recommended. There were office visits in 2004 for medication refills

The Patient continued with medication and underwent two additional lumbar epidural steroid injections in May and August of 2005 with some relief of back pain for four to five days. A repeat MRI on 02/07/06 showed a 2mm posterolateral disc bulge at L4-5 with mild facet arthropathy and a 3 millimeter right posterolateral disc protrusion versus postoperative changes at L5-S1. At both levels, there was mild disc narrowing with disc desiccation but no evidence of stenosis.

Dr. Guess saw the Patient on 03/01/06. Examination noted decreased sensation to light touch on the right thigh, right lateral calf, dorsum of the foot and the lateral right foot. Sitting straight leg raise was positive on the right for gluteal pain. A lumbar discogram was proposed but not authorized.

On 06/07/06, a lumbar myelogram and post myelogram CT were obtained. The report noted mild disc bulging at L4-5 and moderate disc narrowing and degenerative change at L5-S1. At L5-S1 there was a 3 millimeter diffuse posterior soft tissue density extending into the right neural foramen indicative of disc bulging versus postoperative change.

On 06/14/06, Dr. Guess recommended lumbar decompression and fusion at L5-S1. The surgery was not approved and a reconsideration of that decision was requested.

DISPUTED SERVICE(S)

Under dispute is the prospective, and/or concurrent medical necessity of Anterior/posterior lumbar interbody fusion at L5-S1.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

The Review cannot recommend the proposed 360 lumbar interbody fusion as being medically necessary for this Patient. She has no evidence of radiculopathy confirmed by electrodiagnostic testing, no evidence of spinal instability on flexion/extension films and there is no evidence that the proposed fusion will lead to any improvement in the Patient's condition. The Patient appears to have purely discogenic pain and according peer reviewed literature, discogenic pain is not best treated with fusion as the results are not predictable. Patients often do not get the expected pain relief or increase in function when surgery is performed for discogenic pain.

Screening Criteria

1. Specific:

- ACOEM Chapter 12
- Official Disability Guidelines, Treatment in Worker's Comp, 4th edition, 2006, page 814

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: ___ American Home Assurance
___ Attn: Mona Johnson
___ Fax: 877-538-2248

Dr. James Guess
Attn: Isabel
Fax: 214-731-9794

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 23rd day of August, 2006.

Name and Signature of IRO America Representative:

Sincerely,
IRO America Inc.

Dr. Roger Glenn Brown
President & Chief Resolutions Officer