IRO America Inc.

An Independent Review Organization
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September 20, 2006

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

Patient:	___
TDI-DWC #:	___
MDR Tracking #:	M2-06-1821-01
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:

- Dr. Miller
- X-rays, lumbar spine, 02/06/06
- MRI, 02/08/06
- Dr. Vaughan, 03/07/06, 06/13/06
- Nerve conduction studies, 03/15/06
- Computed spine motion, 03/20/06
- EMG/NCS, 03/30/06

- Epidural steroid injection, L4-5, 04/11/06
- Dr. Kennedy, 04/12/06
- Functional capacity evaluation, 05/08/06
- Dr. Vaughan, 06/01/06
- Letter, Concentra, 06/07/06
- Progress note, 06/14/06
- Appeal, 06/28/06
- Dr. Henderson, 07/24/06
- Back and Neck Clinic, 08/28/06

CLINICAL HISTORY

The Patient is a 45 year old male injured on _____ in a trip and fall accident. He has had back pain and intermittent left leg tingling. The Patient has been treated with medication and injection as well as extensive chiropractic.

The 02/06/06 x-rays of the lumbar spine showed sacralization of L5, mild discogenic spondylosis and facet arthrosis at L3-4 and 4-5. On the 02/08/06 stand up MRI, at L3-4 there was mild loss of disc space height, disc protrusion and narrowing of the right neural foramen. The L4-5 level revealed moderate loss of disc space height, anterior spurring, degenerative endplate changes, disc protrusion with bilateral narrowing of the neural foramen, and mild central stenosis and mild bilateral facet degenerative change. At L5-S1 there was a hypoplastic rudimentary disc space. Nerve conduction studies of 03/15/06 documented right L5 radiculopathy but the 03/03/06 EMG/NCS was read as left L5 radiculopathy.

The Patient has been under the care of Dr. Vaughan. On the examination of 03/07/06 straight leg raise was negative and the neurological examination was intact. These same findings were noted on the 04/12/06 examination by Dr. Kennedy. When Dr. Vaughan saw the Patient in June, he noted that pain management and a discogram had been denied and at that time recommended a 360 degree fusion. The surgery was denied. Dr. Henderson saw the Patient for evaluation on 07/24/06 for the primary complaint of low back pain with intermittent tingling into the left leg. There was 5/5 strength and negative straight leg raise. X-rays reportedly showed distortion of the facets on the right, L5-S1 and 4-5 narrowing. There was good alignment in flexion/extension other than minor anterolisthesis of L4 and 5 in flexion. He agreed with Dr. Vaughan that the Patient was a surgical candidate. Surgery has been denied twice and the decision has been appealed.

DISPUTED SERVICE(S)

Under dispute is the prospective, and/or concurrent medical necessity of L3-5 360 degree fusion and decompression with posterior using dynsey systems at L2-5.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

It appears from this medical record the Patient has complaints of back and left leg pain and has undergone a 03/030/06 EMG documenting a left L5 radiculopathy. There has been a 02/08/06 MRI documenting degenerative disc disease L3-L4 and L4-L5 and the Patient has been treated conservatively with activity modification, epidural steroid injection, medication and therapy. The Patient continues to have ongoing complaints and a L3 through L5 lumbar decompression and fusion is requested. While the Patient does have back and left leg complaints and does have some x-rays findings of degenerative disease with flexion extension views

showing some minor anterolisthesis at L4-L5 and flexion, it is not clear that this amount of motion is true instability nor it is clear that the Patient's treating practitioners have clearly documented a painful disc segment. Therefore, without progressive neurologic deficit, clear structural instability or clear documentation of a painful disc segment, the Reviewer's medical assessment is that the lumbar decompression and fusion is not medically necessary.

Screening Criteria

1. Specific:

- Official Disability Guidelines Fourth Edition Treatment in Worker's Comp, Low Back; pp 814-816

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:	___	Leslie Casaubon	Alea North America
	___	Fax: 972-221-4241	Attn: Robert Josey
	___		Fax: 512-346-2539

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 11th day of July, 2006.

Name and Signature of IRO America Representative:

Sincerely,
IRO America Inc.

Dr. Roger Glenn Brown
President & Chief Resolutions Officer