

IRO America Inc.

An Independent Review Organization

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September 19, 2006

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: _____

TDI-DWC #: _____

MDR Tracking #: _____

M2-06-1851-01

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:

- CT, Head, 11/04/04
- X-rays, 11/01/04
- X-rays, Cervical, 11/01/04
- MRI, Lumbar, 11/19/04

- MRI, Cervical, 11/19/04
- EMG/NCV, Lower Extremity, 01/04/05
- EMG/NCS, Upper Extremity, 01/04/05
- Dr. Tomaszek, 03/02/05, 04/17/06
- Dr. Nguyen, 10/19/05, 12/20/05, 01/13/06, 02/09/06, 03/09/06, 04/06/06, 05/08/06
- Epidural Steroid Injection, 10/31/05, 12/15/05, 06/30/06
- Dr. Mauldin Record Review, 02/23/06
- Corvel 04/24/06, 06/27/06, 06/28/06, 06/09/06
- Independent Medical Evaluation, Dr. Likeover, 05/25/06
- Functional Capacity Evaluation, 06/01/06
- Dr. Sahi, 06/07/06
- Dr. Nguyen's Physician Assistant, 06/15/06
- Dr. Berg, Designated Doctor Examination, 08/18/06
- Letter to IRO, 08/22/06

CLINICAL HISTORY

The Patient is a 48 year old male injured on _____ when he fell onto his buttocks and then struck his head. It was noted within the medical records that the Patient had ongoing low back pain complaints but the nature of this request was to address the need for cervical spine fusion and lumbar spine issues were not addressed.

The 11/01/04 cervical x-rays were read as no abnormalities. A 11/19/04 cervical MRI showed that at C2-3, 3-4 and 4-5 there was osteophytic ridging. At C5-6 was a broad ridge with 50 percent neural foraminal stenosis bilaterally. C6-7 showed an osteophytic ridge with bilateral neural foraminal stenosis, left greater than right, and at C7-T1 left foraminal stenosis. Upper extremity EMG/NCS on 01/04/05 noted mild acute bilateral C5-6 radiculopathy.

The Patient was evaluated by Dr. Tomaszek for neck and right arm pain in 03/05. He was referred for ESI. A series of three ESI were given with the last being given on 12/15/05.

In early 2006 the Patient continued treatment with Dr. Nguyen for complaints more related to the lumbar spine although he did note that there was cervical spasm on several examinations. Dr. Mauldin performed a record review on 02/23/06 and felt that the Patient had not sustained any structural damage at the time of the fall that would require ongoing care.

On 04/17/06 Dr. Tomaszek once again evaluated the Patient for neck pain. He recommended ACDF at C5-6 and 6-7.

Dr. Likeover evaluated the Patient on 05/25/06 for a designated doctor examination. There was full neck motion at that time and he also felt the lumbar examination was unremarkable and recommended a return to work.

The Patient continued to treat with Dr. Nguyen for his other complaints and no further records were present from Dr. Tomaszek although it was noted the Patient was awaiting surgical approval. On 01/18/06 Dr. Berg performed a designated doctor examination. He found no motor or sensory deficits, 5/5 strength and normal reflexes.

Dr. Berg also noted there were physical signs on the Patient's hands of use. He opined that the Patient was at MMI with a five percent impairment rating.

Surgery has once again been denied and the decision has been appealed.

DISPUTED SERVICE(S)

Under dispute is the prospective, and/or concurrent medical necessity of anterior C5-7 discectomy/fusion with back cages w/3-4 LOS.

DETERMINATION/DECISION

The Reviewer agrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

The Patient is a 48 year with low back and neck pain. A two level cervical fusion has been recommended. In care review of all the medical records, there is the lack of a physical examination that documents a radicular pattern of pain or any focal neurological deficit. While the EMG of 01/05 revealed evidence of a bilateral radiculopathy, there are no objective findings that would be consistent with that finding. Based on a lack of physical findings that would correlate with the diagnostic studies, the request for anterior C5-7 discectomy/fusion with back cages with three to four day length of stay is not medically necessary.

Screening Criteria

1. Specific:

- Official Disability Guidelines Fourth Edition Treatment in Worker's Comp, Neck; pg 1115

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: _____

John Bergeron, MD Service Lloyds Ins. Co. / Harris & Harris
Attn: Cynthia Attn: Robert Josey
Fax: 713-868-1413 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 19th day of September, 2006.
Name and Signature of IRO America Representative:

Sincerely,
IRO America Inc.

Dr. Roger Glenn Brown
President & Chief Resolutions Officer