

January 17, 2006

**RE: MDR#:** M2-05-0215-01      **Injured Employee:** \_\_\_\_  
**DWC#:** \_\_\_\_      **DOI:** \_\_\_\_  
**IRO Certificate #:** 5055      **SS#:** \_\_\_\_

**TRANSMITTED VIA FAX TO:**

**TDI, Division of Workers' Compensation**

Attention: \_\_\_\_  
Medical Dispute Resolution  
Fax: 512-804-4868

**REQUESTOR:**

SYZYG Y Assoc. LP  
Attn: Linda Kinney  
Fax: (817) 451-0091

**RESPONDENT:**

Zurich American Ins. Co./FOL  
Attn: Katie Foster  
Fax: (512) 867-1733

**TREATING DOCTOR:**

Neil Atling, D.O.  
Fax: (214) 357-5488

Dear Mr. \_\_\_\_:

In accordance with the requirement for DWC to randomly assign cases to IROs, TWCC assigned your care to IRI for an independent review. IRI has performed an independent review of the medical records to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc., and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is board certified in Pain

Management and Anesthesiology and is currently listed on the DWC Approved Doctor List.

### **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 the district court in Travis County (see Texas Labor Code 414.031). An appeal to District Court must be filed not later than thirty (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.

I hereby verify that a copy of this independent review organization (IRO) decision was sent to the carrier, the requestor and claimant via facsimile or US Postal Service from this IRO office on January 17, 2006.

Sincerely,

General Counsel

### **REVIEWER'S REPORT M2-06-0215-01**

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#### **Information Provided for Review:**

DWC-60, Table of Disputed Services, EOBs

From Requestor:

Office visit 08/31/05

Physical performance 08/31/05

From Respondent:

Correspondence

From Treating MD:

Office notes 02/19/04 – 10/05/05

Procedure notes 12/23/04 – 09/14/05

Radiology 01/16/04

**Clinical History:**

This claimant was allegedly injured on \_\_\_ while lifting pipe. He presented to Dr. \_\_\_ for a neurosurgical consultation on 02/19/04, complaining of right lumbar pain radiating into the right lateral thigh but not below the knee. Dr. \_\_\_ reviewed a lumbar MRI scan that had been performed on 01/16/04 stating that it was “completely within normal limits” with no annular tear, a large spinal canal, no evidence of disc herniation, and no evidence of foraminal encroachment. The actual MRI report also demonstrated that there was no disc herniation or spinal stenosis, as well as no significant foraminal stenosis or neural compromise. Physical examination by Dr. \_\_\_ documented no abnormal findings with an entirely normal neurologic and physical examination.

The claimant was then evaluation by Dr. \_\_\_ on 12/08/04, who documented the same complaint of lumbar and right lateral thigh pain. He noted that there was a negative straight leg raising test, no abnormal neurologic examination, and tenderness over the L3/L4 through L5/S1 facet joints. On 12/23/04, Dr. \_\_\_ performed right L3/L4, L4/L5 and L5/S1 facet injections. Following those injections, the claimant stated he was “eager” to get back to work and that his pain was initially completely relieved with sustained 30% to 40% improvement. Bilateral L3/L4, L4/L5 and L5/S1 facet joint injections were then performed by Dr. \_\_\_ on 01/20/05, with the claimant continuing this time to complain of moderate back pain. An epidural steroid injection was then performed by Dr. \_\_\_ on 02/23/05 with the follow up documentation failing to indicate whether there was any improvement. Physical examination, however, was still negative.

Additional epidural steroid injections were then performed by Dr. \_\_\_ on 06/09/05 and 06/23/05, after which the claimant continued to complain of back pain. He started the claimant on Wellbutrin on 06/29/05. On 08/17/05 Dr. \_\_\_ followed up with the patient. At that point, Dr. \_\_\_ recommended a chronic pain management program. He also recommended trigger point injections. On 08/31/05 a psychological intake evaluation was performed by psychologist Dr. \_\_\_. In that evaluation, the claimant’s subjective complaints were listed, but no psychological status. Non-specific diagnosis of “pain disorder associated with both psych factors and general medical condition” was made, but no specific psychological abnormality was noted. At the time, the claimant listed his medications as hydrocodone and Ultram only, no antidepressant. On 09/14/05 Dr. \_\_\_ performed trigger point injections on the claimant’s lumbar spine. Following up with him on 10/05/05, he stated that the “trigger points were effective in reducing the remainder of his pain complaints”. He stated that the claimant was continuing to make progress and that there were only minimal areas of discomfort. He again recommended a chronic pain management program or “possibly a work hardening program”. He continued the claimant on 2 Ultram daily and Zanaflex, again with no mention of whether the claimant was still taking an antidepressant.

**Disputed Services:**

Chronic pain management program eight hours per day, five days per week for two weeks.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the treatment in dispute as stated above is not medically necessary in this case.

**Rationale:**

This claimant has not exhausted all appropriate medical treatment options for his alleged work injury. In fact, as of October 5<sup>th</sup>, he was still undergoing active medical treatment by Dr. \_\_\_\_ who reported that trigger point injections had provided effective reduction of the remainder of the claimant's pain complaints. Given such a result, it is apparent that the claimant's pain was no longer significant. Moreover, it indicated that trigger point injection therapy might provide further relief if pain again flares.

Additionally, the alleged psychological evaluation was, in fact, nothing more than a listing of the claimant's subjective complaints. Lacking any objective testing or evaluation of the claimant's psychological status, as well as any valid psychological diagnosis, the alleged psychological evaluation appeared to be done primarily to facilitate entrance into the chronic pain management program to which the claimant had been referred. It is not medically appropriate to admit a claimant to a chronic pain management program based on such a superficial psychological evaluation, especially when ongoing medical treatment was continuing. Additionally, it does not appear that the claimant was being maintained on his antidepressant medication by Dr. \_\_\_\_, which, again, would illustrate that all appropriate medical treatment options had not been exhausted.

A chronic pain management program, therefore, is not medically reasonable or necessary in this claimant, as all medical treatment options had not been exhausted, active medical treatment was still underway, and it appeared that the claimant's pain was under very good control following trigger point injections, which would, therefore, not necessitate proceeding with a tertiary level of care. Psychological intake evaluations that lack validity studies and/or studies of reliability regarding the claimant's diagnosis are not valid for entrance in tertiary level care programs and appear to be based upon subjective rather than objective criteria. Additionally, this claimant has not exhausted lesser levels of psychological care such as individual or group counseling, treatment which should be completed prior to consideration of tertiary level care program such as a chronic pain management program, especially in the absence of documentation of being treated with an antidepressant.