


INDEPENDENT REVIEW INCORPORATED

October 3, 2006

Re: **MDR #:** **M2 07 0019 01** **Injured Employee:** ___
 DWC #: ___ **DOI:** ___
 IRO Cert. #: **5055** **SS#:** ___

TRANSMITTED VIA FAX TO:
TDI, Division of Workers' Compensation
Attention: ___
Medical Dispute Resolution
Fax: (512) 804-4868

RESPONDENT: **American Home Assurance**

TREATING DOCTOR: **Javier Marull, MD**

In accordance with the requirement for DWC to randomly assign cases to IROs, DWC assigned this case 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 office manager 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 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 carrier health care providers who reviewed the case for decision before 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 a board certified in anesthesiology/pain management and is currently listed on the DWC Approved Doctor List.

We are simultaneously forwarding copies of this report to the payor and the TDI, Division of Workers' Compensation. This decision by Independent Review, Inc. is deemed to be a DWC decision and order.

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.

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 U.S. Postal Service from the office of the IRO on October 3, 2006.

Sincerely,



Jeff Cunningham, DC
Office Manager

**REVIEWER'S REPORT
M2 07 0019 01**

MEDICAL INFORMATION REVIEWED:

1. Medical records from Dr. Elliston at Concentra dated 02/20/06
2. Medical records of chiropractor Dr. Sar-Shalom from 02/25/06 through 04/26/06
3. Medical records of Dr. Johnson from 02/27/06 through 03/30/06
4. Lumbar MRI scan dated 03/23/06
5. Medical records of Dr. Marull from 06/08/06 through 08/17/06

BRIEF CLINICAL HISTORY:

This claimant was allegedly injured on ___ as a result of lifting a box of files weighing approximately 8 pounds. From the records provided, it does not appear that she sought any medical evaluation until 3 days later, on 03/20/06, when she was evaluated at Concentra by Dr. Elliston. Dr. Elliston noted no abnormal findings on spinal examination other than nonspecific decreased range of motion of the trunk and pain with palpation over the left costovertebral angle with a positive CVA tenderness on the left. The lumbar spine, however, demonstrated full range of motion. Dr. Elliston stated the claimant was at MMI as of that date with a 0% impairment rating and recommended full unrestricted return to work. On 02/24/06 the claimant presented to chiropractor Sar-Shalom, continuing to complain of lumbar pain as well as neck pain, buttock pain, and left posterior thigh pain. The claimant was sent for lumbar x-rays on 02/24/06, which were entirely normal. She was then referred for orthopedic surgical evaluation with Dr. Johnson on 02/27/06. He noted her complaint of lumbar pain. He diagnosed severe lumbar strain and followed up with the claimant on 03/13/06. He noted that the claimant's pain had now switched sides from the left side to the right side. He ordered a lumbar MRI scan on 03/23/06, which demonstrated mild degenerative facet joint hypertrophy at L4/L5 and L5/S1 with no disc abnormality, spinal stenosis, or neural compromise. On 03/30/06 Dr. Johnson noted that the claimant had "improved with rehab" and recommended that she finish that process. On 06/08/06 the claimant was evaluated by Dr. Marull, complaining of lumbar pain with intermittent radiation to the right lower extremity behind her knee. Dr. Marull noted that the claimant stated that 3 months of physical therapy had "helped her significantly." He also noted the claimant was "not taking any medication." Physical examination demonstrated normal range of motion, no tenderness to palpation of the lumbar spine, negative straight leg raising, and no neurologic deficits. Dr. Marull started the claimant on Celebrex 1 per day. A request was then made for bilateral L4/L5 and L5/S1 facet joint injections. That request was denied based upon the Dr. Marull's documented evaluation of the claimant on 06/08/06. The claimant was then referred by the chiropractor for electrodiagnostic evaluation with Dr. Proler on 07/18/06. That evaluation demonstrated changes consistent with left L5

radiculopathy. A reconsideration request was then submitted for the lumbar facet injections on 08/01/06. That request was denied based upon Dr. Marull's physical examination and MRI findings. On 08/17/06 Dr. Marull re-evaluated the claimant. He now stated that the claimant had obtained no significant benefit from physical therapy, contradicting his previous note. He also documented palpatory tenderness of the paravertebral areas at L4/L5 and L5/S1 with increased pain on lumbar extension and rotation. He again recommended bilateral lumbar facet injections.

DISPUTED SERVICES:

Lumbar facet injections.

DECISION:

I AGREE WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER IN THIS CASE.

RATIONALE OR BASIS FOR DECISION:

Based upon the mechanism of injury as described, there would be no valid medical mechanism by which the claimant would have injured her facet joints. Additionally, the MRI results clearly demonstrate that the findings of facet hypertrophy, which are clearly pre-existing and degenerative in nature, are of only a "mild" severity. Therefore, given the mechanism of injury and only "mild" pre-existing facet degeneration, there would be no expectation of the claimant sustaining a lumbar facet injury. Additionally, it is clearly documented that the claimant's pain complaint has been migratory, switching sides as she is evaluated by different physicians and chiropractors. This is clearly a nonphysiologic finding and one which would not be expected to respond to interventional treatment. Third, despite the claimant's complaints of right lower extremity pain as a justification for referral for electrodiagnostic studies, those studies clearly demonstrated evidence of left-sided radiculopathy, again contradicting the claimant's subjective complaints. Finally, Dr. Marull's initial note of 06/08/06 clearly documents the claimant's statement that she had "significant" benefit from physical therapy, a statement which is later contradicted in the 08/17/06 note with no explanation for that contradiction. Lumbar facet injections, therefore, are not medically reasonable or necessary as treatment related to the alleged work injury of ____.

SCREENING CRITERIA/TREATMENT GUIDELINES/PUBLICATIONS UTILIZED:

Based upon the documentation provided from the requesting doctor as well as from an orthopedic surgical consult and the initial evaluation of this claimant on her first presentation for treatment, it is clear that this claimant's pain complaints have been migratory in nature, inconsistent, and are unsupported by objective test results.