

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on **5/23/03**.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The emergency surgery and hospital stay were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for emergency surgery and hospital stay.

This Finding and Decision is hereby issued this 20<sup>th</sup> day of, August 2003.

Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby **ORDERS** the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 8/20/02 through 8/22/02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this \_\_\_\_\_ day of, \_\_\_\_\_ 2003.

Medical Dispute Resolution  
Medical Review Division

Enclosure: IRO Decision

## NOTICE OF INDEPENDENT REVIEW DECISION

August 13, 2003

Medical Review Division  
Texas Workers Compensation Commission  
4000 South IH-35, MS 48  
Austin, TX 78704-7491

RE: Injured Worker:  
MDR Tracking #: M5-03-2435-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a TMF physician reviewer who is board certified in orthopedic surgery which is the same specialty as the treating physician. The TMF physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### Clinical History

This patient sustained a lumbar spine injury on 09/21/01, mechanism unknown. She did, however, have an MRI dated 10/29/01 which revealed HNP on the left at L5-S1. The patient underwent physical therapy, chiropractic treatments, and medications. She had an exacerbation of symptoms around 08/15/02 and saw an orthopedic surgeon. At that time her pain level was 9-10/10 and showing signs of radiculopathy including bowel and bladder incontinence. She underwent a lumbar laminectomy at L5-S1 on 08/20/02.

### Requested Service(s)

Emergency surgery and hospital stay from 08/20/02 through 08/22/02

## Decision

It is determined that the emergency surgery and hospital stay from 08/20/02 through 08/22/02 was medically necessary to treat this patient's condition.

## Rationale/Basis for Decision

The diagnostic procedures (MRI and CT myelogram) and the laminectomy were indicated and performed appropriately. The difficulty arises out of the attempts to circumvent the pre-authorization requirements by declaring "an emergency". Common usage defines "emergency" as a condition requiring diagnostic procedures and/or therapeutic interventions to be performed within six-to-eight hours to prevent loss of life or limb and/or prevention of serious disabling health consequences.

When the physician declared an emergency and obtained an MRI and CT myelogram outside of pre-authorization requirements, he should have been prepared to perform the surgery within the same timeframe. "Urgent or urgency" designations imply timeframes of 24 to 48 hours. Although the surgeon declared an emergency, the surgery was performed as an urgency. Nonetheless, this surgical procedure and hospitalization was medically necessary and, due to the severe symptoms the patient was having, was urgent. Therefore, it is determined that the emergency surgery and hospital stay from 08/20/02 through 08/22/02 was medically necessary.

Sincerely,

Gordon B. Strom, Jr., MD  
Director of Medical Assessment