

MDR Tracking Number: M5-03-2492-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution-General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 6-6-03.

The IRO reviewed arthrodesis, bone marrow harvesting, bone marrow transplanting, harvesting of bone allograft bone graft, debridement, and complex trunk repair rendered on 6-26-02.

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 not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 10-24-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
6-26-02	63047 63047-85	5500.00 550.00	0.00	V	\$3540.00 10% of MAR = \$354.00	96 MFG Surgery GR; CPT descriptor; -85 modifier descriptor Rule 133.301(a); & 134.600 (h)	Although carrier denied as "V", Corvel preauthorized this service on 6-12-02 under preauthorization # 56897. Operative Report dated 6-26-02 supports delivery of service. Recommend reimbursement of \$3894.00.
TOTAL		6050.00					The requestor is entitled to reimbursement of \$3894.00.

This Decision is hereby issued this 20<sup>th</sup> day of January 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

**ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for date of service 6-26-02 in this dispute.

This Order is hereby issued this 20<sup>th</sup> day of January 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

**NOTICE OF INDEPENDENT REVIEW DECISION**

October 22, 2003

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE:                    MDR Tracking #:                    M5-03-2492-01  
                          IRO Certificate #:                    IRO4326

The \_\_\_ 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 \_\_\_ for independent review in accordance with TWCC §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ 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 \_\_\_ physician reviewer who is board certified in Orthopedic Surgery which is the same specialty as the treating physician. The \_\_\_ 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 \_\_\_ 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 injured his back on \_\_\_ while closing the hood of a bus when the latch did not open and his right knee gave out. He reports pain in his back radiating down the right leg. He previously had a laminectomy with posterior lateral fusion at L4-5 and L5-S1.

### Requested Service(s)

Arthrodesis, bone marrow harvesting, bone marrow transplanting, harvesting of bone allograft bone graft, debridement, and complex trunk repair from 06/26/02

### Decision

It is determined that the arthrodesis, bone marrow harvesting, bone marrow transplanting, harvesting of bone allograft bone graft, debridement, and complex trunk repair from 06/26/02 were medically necessary to treat this patient's condition.

### Rationale/Basis for Decision

This patient with a history of an L5-S1 fusion had a re-injury to his lumbar spine which required him to undergo a decompression and fusion for adjacent segment disease. Anytime a decompression is performed at an adjacent segment to a fusion, a fusion is indicated and recommended.

In a study by Schlegel, J D, Smith, J A, and Schleusener, R. L. "*Lumbar Motion Segment Pathology Adjacent to Thoracolumbar, Lumbar, and Lumbosacral Fusions*" Spine 1996 April;21(8):970-981, fifty-eight patients developed spinal stenosis, disc herniation, or instability at a segment adjacent to a previously asymptomatic fusion that was done an average of 13.1 years earlier. Segments adjacent to the adjacent segment itself were as likely to breakdown (58%). After undergoing fusion in the adjacent spinal segment, thirty-seven patients were followed for more than 2 years, having outcomes defined as good or excellent in 70.3%. Therefore, it is determined that the arthrodesis, bone marrow harvesting, bone marrow transplanting, harvesting of bone allograft bone graft, debridement, and complex trunk repair from 06/26/02 were medically necessary.

Sincerely,