

procedures: Removal of Synthes Click'X system from the lumbar spine; Removal of EBI battery pack; Exploration of fusion of L5-S1; Extension of fusion to L4; Re-instrumentation of a Blackstone lumbar instrumentation L4-S1, a re-do decompression of L4-5 and L5-S1; Iliac crest bone graft, right side, through a separate incision; Use of Allograft bone and DBX putty; Fusion L4-S1; Screw test utilizing the SSEP monitors X 8; Planned second stage of a 2-stage surgery for stabilization of the joints at a level of L4-L5; Laparotomy, retroperitoneal dissection and mobilization of abdominal aorta and left iliac vein and artery and inferior vena cava, exposure of L4 and L5 vertebral body and intervertebral disc space; and insertion of left subclavian triple-lumen central venous catheter. Accordingly, the stop-loss method does apply and the reimbursement is to be based on the stop-loss methodology.

In determining the total audited charges, it must be noted that the insurance carrier has indicated some question regarding the charges for the implantables. The requestor billed \$74,710.00 for the implantables. The carrier paid \$23,861.25 for the implantables based on a cost plus 10% approach. The key issue is what amount would represent the usual and customary charges for these implantables in determining the total audited charges. The requestor provided the Commission with invoices in the amount of \$23,195.00 for the actual cost of implantables. Based on a review of numerous medical disputes and our experience, the average markup for implantables in many hospitals is 200%. Since the actual cost of the implantables is \$23,195.00 based on invoices supporting their cost or charge, we will apply this average mark-up to the cost amount to determine the amount to use in the total audited charges. Based on a cost of \$23,195, and this amount multiplied by the average mark-up of 200% results in an audited charge for implantables equal to \$46,390.00

The total audited charges associated with this admission equals \$158,390.00. This amount multiplied by the stop-loss reimbursement factor (75%) results in a workers' compensation reimbursement amount equal to \$118,792.50. The Requestor billed the Respondent \$186,724.00 and received payments of \$60,869.46.

Based on the facts of this situation, the parties' positions, and the application of the provisions of Rule 134.401(c), we find that the health care provider is entitled to a reimbursement amount for these services equal to \$57,923.04.

PART VI: COMMISSION DECISION AND ORDER

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is entitled to additional reimbursement in the amount of \$57,923.04. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 20-days of receipt of this Order.

Ordered by:

Allen McDonald

04/13/05

Authorized Signature

Typed Name

Date of Order

PART VII: YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within 20 (twenty) days of your receipt of this decision (28 Texas Administrative Code § 148.3). This Decision was mailed to the health care provider and placed in the Austin Representatives box on _____. This Decision is deemed received by you five days after it was mailed and the first working day after the date the Decision was placed in the Austin Representative's box (28 Texas Administrative Code § 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, 7551 Metro Center Drive, Suite #100, Austin, Texas, 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request.

The party appealing the Division's Decision shall deliver a copy of their written request for a hearing to the opposing party involved in the dispute.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

PART VIII: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision and Order in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____