This AMENDED FINDINGS AND DECISION supersedes all previous Decisions rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's decision of 11/3/03 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 11/25/01 issued by David R. Martinez, Manager of Medical Dispute Resolution. A copy of the Withdrawal is reflected in Exhibit 1 of the Commission's case file.

Under the provisions of Section 413.031 of the Texas Worker's Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective September 1, 1993 and Commission Rule 133.305 (Titled Request for Medical Dispute Resolution), a dispute resolution review was conducted by the Medical Review Division regarding a medical dispute between the requestor and the respondent named above.

The Medical Review Division rendered a Findings and Decision involving a medical payment dispute predicated by the carrier denying payment of surgical charges based on "G" – global to other procedures and payment reduced on the basis of "M" – fair and reasonable reimbursement. The Medical Review Division's Decision of 11/3/03 was issued based upon the requestor not submitting supporting documentation verifying delivery of service timely which resulted in an Order not being issued for the respondent to pay for the health care costs associated the disputed nutritional supplements.

The requestor appealed this Decision and submitted convincing evidence that proper documentation was timely delivered to the Commission, resulting in the issuance of this Remand.

I. DISPUTE

Whether there should be additional reimbursement for removal of spinal lamina 63047-80, 63048-80, 63048-80, additional spinal disk surgery 63035-80, removal of spinal lamina 63011-51 and injection for spine disk x-ray 62290 x 3 denied by the carrier on the basis of "G" – global to another procedure. Electrical bone stimulation 20975-80 was denied payment for lack of preauthorization, and spine surgery procedure 22899-51 and 22899-80 were reduced by the carrier on the basis of "M" – fair and reasonable charges.

II. RATIONALE

The operative report, dated 7/19/01, stated the following procedures were done:

1. Re-exploration laminectomy L4.
2. Laminectomy L5.
3. Laminectomy L3.
4. Partial laminotomy L2.
5. Partial laminotomy sacrum.

6. Anterior column instrumentation with fusion with TRC system 10mm blocks, L4-5 interbody arthrodesis with TRC interbody system and L5-S1 TRC interbody arthrodesis anterior column.
7. Posterior segmental instrumentation L3 to S1 bilaterally.
8. Right pelvic autograft to separate fascial incision.
9. Electrical bone stimulation.

Regarding the removal of spinal lamina 63047-80, 63048-80, 63048-80, additional spinal disk surgery 63035-80, removal of spinal lamina 63011-51 and injection for spine disk x-ray 62290 x 3 denied by the carrier on the basis of "G", the requestor identifies the L-3 laminectomy 63047 80 as the primary procedure.

As the primary procedure, the MFG, Surgery Ground Rules (I)(D)(a) states this should be reimbursed at 100% of the MAR, (in this case, 25% of the listed MAR of for assistant surgeon, $3,540.00 or $885.00). Reimbursement of $850.00 is recommended for 63047-80.

The laminectomies 63048-80 x 2 and laminotomy 63035-80 are reduced per the MFG, SGR, (I)(D)(b)(i) to 50% of the MAR ($708.00 for 63048-80 and $607.00 for 63035-80 and in this case, 25% of the listed MAR of for assistant surgeon) as the procedures were performed through the same incision as the primary procedure. Therefore, reimbursement at $88.50 x 2 is recommended for 63048-80 and $75.87 for 63035-80.

The removal of spinal lamina (sacral) 63011-51 is indicated as multiple procedure by modifier -51 and should have the 50% reduction per the MFG, Surgery Ground Rule (I)(D)(b). The operative report supports delivery of this service. Reimbursement of $392.00 billed by the requestor is recommended.

The injection for spine disk x-ray 62290 x 3 was an integral part of the x-ray necessary to located the proper vertebras during the performance of the surgery. As a starred (*) procedure 62290, per MFG, Surgery Round Rules, (II)(A) states, "Some services involve a readily identifiable surgical procedure, but include variable pre-operative and post-operative services. The global fee concept for surgical services cannot be applied. These procedures are identified by a star (*) following the procedure code. As the injections were done via the same incision the 50% of MAR reduction is appropriate. Reimbursement at $75.75 x 3 is recommended for 62290.

The Electrical bone stimulation 20975-80 was denied payment for lack of preauthorization. The requestor submitted a copy of the TWCC-63 filed with the Commission indicating the bone stimulator was a recommended procedure. No evidence that the requested bone stimulator had been denied by the respondent was submitted. If the request per the TWCC-63 had not been approved as listed the spinal surgery would not have been approved by the Commission. On this basis, reimbursement for 20975-80 is recommended. As this procedure was done through the

same incision, a 50% reduction in the MAR is appropriate along with reduction to 25% of that amount for an assistant surgeon. Reimbursement of $56.87 is recommended for 20975-80.

The spine surgery procedure 22899-51 and 22899-80 were reduced by the carrier on the basis of "M" – fair and reasonable charges. The respondent did not address how their fair and reasonable payments were determined. The requestor furnished redacted copies of EOBs indicating that multiple carriers had considered charges higher than the billing for this dispute to be fair and reasonable. On this basis reimbursement as billed by the requestor is recommended. The procedure 22899-51 reflects the 50% reduction in the MAR having been taken by the taken into account by the requestor. Additional reimbursement of $368.75 less $211.19 already paid by the carrier or $156.56 is recommended.

Procedure 22899-80 is 50% reduction in the MAR as a procedure through the same incision and payable at 25% as the assistant surgeon's charge. Reimbursement of an additional payment is not recommended as it exceeds the amount paid by the respondent.

III. DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is** entitled to reimbursement for removal of spinal lamina 63047 80, 63048-80, 63048-80, additional spinal disk surgery 63035-80, removal of spinal lamina 63011-51 and injection for spine disk x-ray 62290 x 3, electrical bone stimulation 20975-80, spine surgery procedure 22899-51 and 22899-80 in the amount of **$1,935.55.** Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Division hereby ORDERS the Respondent to remit **$1,935.55** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

The above Amended Findings, Decision and Order are hereby issued this 21st day of January 2004.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/nlb