

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review
P.O. Box 138009
Sacramento, CA 95813-8009
(855) 865-8873 Fax: (916) 605-4270



Notice of Independent Medical Review Determination

Dated: 8/8/2013

[Redacted]

[Redacted]

[Redacted]

Employee: [Redacted]
Claim Number: [Redacted]
Date of UR Decision: 6/28/2013
Date of Injury: 5/16/2011
IMR Application Received: 7/2/2013
MAXIMUS Case Number: CM13-0000926

- 1) MAXIMUS Federal Services, Inc. has determined the requested 2 Stage Spinal Surgery: Anterior Lumbar Fusion L4-S1 with Vascular Surgeon Assist and Posterior Lumbar Pedicle Screw Fixation at L4-S1 **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the requested Appropriate Inpatient Length of Stay **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/2/2013 disputing the Utilization Review Denial dated 6/28/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/2/2013. A decision has been made for each of the treatment and/or services that were in dispute:

- 1) MAXIMUS Federal Services, Inc. has determined the requested 2 Stage Spinal Surgery: Anterior Lumbar Fusion L4-S1 with Vascular Surgeon Assist and Posterior Lumbar Pedicle Screw Fixation at L4-S1 **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the requested Appropriate Inpatient Length of Stay **is not medically necessary and appropriate.**

Medical Qualifications of the Expert Reviewer:

The independent Medical Doctor who made the decision has no affiliation with the employer, employee, providers or the claims administrator. The physician reviewer is Board Certified in Neurological Surgery, and is licensed to practice in California. He/she has been in active clinical practice for more than five years and is currently working at least 24 hours a week in active practice. The Expert Reviewer was selected based on his/her clinical experience, education, background, and expertise in the same or similar specialties that evaluate and/or treat the medical condition and treatments and/or services at issue.

Case Summary:

Disclaimer: The following case summary was taken directly from the utilization review denial/modification dated June 28, 2013

“This 49-year-old male sustained a work related injury on 5/16/11. The mechanism of injury occurred when he was bringing down a metal box weighing 128 pounds and felt pain to his low back. His diagnosis was lumbar degenerative disc disease. An electromyogram dated 10/5/12, noted no radiculopathy. A previous utilization review denial for L4-5 microdiscectomy dated 6/17/13 was reviewed. An MRI of the lumbar spine dated 6/18/13, noted decreased disk height, mild disk desiccation, and degenerative marrow changes, with anterior lateral and posterior osteophytes noted at the L5-S1 level. There was associated mild to moderate bilateral foraminal narrowing. Mild disc desiccation with 2mm broad-based left sided disk protrusion was noted at the L4-5 level which flattened the ventral aspect of the thecal sac and abutted but did not compress the emerging left L5 nerve root. Compared with prior MRI of the lumbar spine dated 5/5/12, there had been no significant change. The office note dated 6/24/13, indicated the associate stated his pain was getting worse. He complained of severe low back pain that radiated down to his left leg with numbness and tingling. He had tried physical therapy and epidural injections with no relief. He could only stand for 10 minutes before pain started. He had no bowel or bladder issues. The exam revealed a positive straight leg test on the left, 5/5 motor strength of the bilateral lower extremities, intact and equal reflexes, and normal sensation to light touch and pinprick. Lumbar spine X-rays revealed a 3mm retrolisthesis of L5 on S1, unchanged with flexion, but reduced completely with extension. Vertebral body height was well maintained. There was moderate disc space narrowing at L5-S1. The plan was to proceed with lumbar 360 fusion L4-S1. The MRI films were reviewed, and although some degenerative changes

were noted at the L5-S1 level, there was significant stenosis or instability that would indicate the need for lumbar fusion.”

Documents Reviewed for Determination:

The following relevant documents received from the interested parties and the documents provided with the application were reviewed and considered. These documents included:

- Application for Independent Medical Review dated 7/10/2013
- Utilization Review Determination provided by [REDACTED] dated 6/28/2013
- Medical Records from 7/13/2012 through 6/18/2013
- American College of Occupational and Environmental Medicine (ACOEM) guidelines, 2004, 2nd Edition, Low Back Complaints, Surgical Considerations, Spinal Fusion, Chapter 12, pages 307 -310
- Official Disability Guidelines (ODG), Current Version, Low Back Chapter, Fusion
- Official Disability Guidelines (ODG). Current Version, Low Back Chapter, Hospital Length of Stay (LOS)

1) Regarding the request for 2 Stage Spinal Surgery: Anterior Lumbar Fusion L4-S1 with Vascular Surgeon Assist and Posterior Lumbar Pedicle Screw Fixation at L4-S1:

Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the American College of Occupational and Environmental Medicine (ACOEM) guidelines, 2004, 2nd Edition, Low Back Complaints, Surgical Considerations, Spinal Fusion, Chapter 12, pages 307 -310, of the MTUS, and the Official Disability Guidelines (ODG), Current Version, Fusion, a Medical Treatment Guideline (MTG) not in the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the MTUS section of the guidelines used by the Claims Administrator relevant and appropriate for the employee’s clinical circumstance.

Rationale for the Decision:

The employee injured the low back lifting a heavy metal box on 5/16/2011. The diagnosis was degenerative disk disease. An electromyogram dated 10/05/2012 noted no radiculopathy, and an MRI of the lumbar spine dated 6/18/2013 noted degenerative changes. The submitted and reviewed records dated 6/24/2013 noted that the employee stated that the pain was getting worse. A request was made for 2 Stage Spinal Surgery: Anterior Lumbar Fusion L4-S1 with Vascular Surgeon Assist and Posterior Lumbar Pedicle Screw Fixation at L4-S1 and an appropriate inpatient length of stay.

ACOEM Guidelines do not support spinal fusion alone for the treatment of acute low back problems, in the absence of spinal fractures, dislocation, or spondylolisthesis if there is instability or motion in the segment to be operated on.

The submitted medical records fail to document instability at the spinal segmental levels under consideration for surgery. The requested 2 Stage Spinal Surgery: Anterior Lumbar Fusion L4-S1 with Vascular Surgeon Assist and Posterior Lumbar Pedicle Screw Fixation at L4-S1 is not medically necessary and appropriate.

2) Regarding the request for Appropriate Inpatient Length of Stay :

Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Official Disability Guidelines, Current Version, Low Back Chapter, Hospital Length of Stay (LOS), a medical treatment guideline (MTG) not in the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found no section of the MTUS relevant and appropriate to the employee's clinical circumstance. The Expert Reviewer found the guidelines used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee injured the low back lifting a heavy metal box on 5/16/2011. The diagnosis was degenerative disk disease. An electromyogram dated 10/05/2012 noted no radiculopathy, and an MRI of the lumbar spine dated 6/18/2013 noted degenerative changes. The submitted and reviewed records dated 6/24/2013 noted that the employee stated that the pain was getting worse. A request was made for 2 Stage Spinal Surgery: Anterior Lumbar Fusion L4-S1 with Vascular Surgeon Assist and Posterior Lumbar Pedicle Screw Fixation at L4-S1 and an appropriate inpatient length of stay.

The ODG guidelines support post-surgical hospital stays for up to 3 days following spinal surgery. The requested surgery is not medically necessary and appropriate; therefore, the hospital stay is not medically necessary and appropriate.

Effect of the Decision:

The determination of MAXIMUS Federal Services and its physician reviewer is deemed to be the final determination of the Administrative Director, Division of Workers' Compensation. With respect to the medical necessity of the treatment in dispute, this determination is binding on all parties.

In accordance with California Labor Code Section 4610.6(h), a determination of the administrative director may be reviewed only if a verified appeal is filed with the appeals board for hearing and served on all interested parties within 30 days of the date of mailing of the determination to the employee or the employer. The determination of the administrative director shall be presumed to be correct and shall be set aside only upon proof by clear and convincing evidence of one or more of the grounds for appeal listed in Labor Code Section 4610.6(h)(1) through (5).

Sincerely;

Richard C. Weiss, MD, MPH, MMM, PMP
Medical Director

cc: Department of Industrial Relations
Division of Workers' Compensation
1515 Clay Street, 18th Floor
Oakland, CA 94612

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Disclaimer: MAXIMUS is providing an independent review service under contract with the California Department of Industrial Relations. MAXIMUS is not engaged in the practice of law or medicine. Decisions about the use or nonuse of health care services and treatments are the sole responsibility of the patient and the patient's physician. MAXIMUS is not liable for any consequences arising from these decisions.