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**Notice of Independent Medical Review Determination**

Dated: 10/3/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee: [REDACTED]  
Claim Number: [REDACTED]  
Date of UR Decision: 7/10/2013  
Date of Injury: 12/10/2011  
IMR Application Received: 7/18/2013  
MAXIMUS Case Number: CM13-0002013

- 1) MAXIMUS Federal Services, Inc. has determined the request for lumbar spine fusion, cage/screws surgery with assistant, and 3 day inpatient hospital stay **is not medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/18/2013 disputing the Utilization Review Denial dated 7/10/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/23/2013. 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 request for lumbar spine fusion, cage/screws surgery with assistant, and 3 day inpatient hospital 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 Michigan. 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 July 10, 2013

"Clinical summary: According to the clinical documentation, the patient is a 31-year -old individual who sustained an injury on 12/10/11. According to office visit notes dated 6/20/13 by Dr. [REDACTED], the patient was seen for the review of provocative disco gram results and further discussion regarding treatment options. The patient continued to experience severe midline lumbosacral back pain extending into gluteal area on a constant basis. There were no objective findings documented in this report. Treatment plan included L5-S 1 transforaminal lumbar interbody fusion with interbody cage and pedicle screws. According to Confidential Psychological Evaluation dated 3/1/13 by [REDACTED], Ph.D., the patient was currently not receiving mental health treatment. The patient denied prior suicide attempt. The patient denied any history of major mental illness excluding the normal symptoms of mild depression, stress, or anxiety expected with various life events. The patient reported a history of occasional alcohol use since late high school or college. The patient denied a history of drug use. The patient denied smoking cigarettes. The patient reported of currently dealing with the following stressors: health and job related issues. The patient reported that back pain was preventing the patient from working and living life. The patient denied experiencing any stressful events in the past three years. The patient reported of talking with husband, family, and friends; walking; activity; and doing fun things to cope with stress. The patient rated ability to deal with stress as good. The patient's willingness to learn new coping skills and utilize support groups and/or mental health services was reported as good. The patient reported that spouse and family were very supportive. The patient reported of being very close to brother, wife, and in-laws. Mental status examination was within normal limits. The patient exhibited adequate awareness of what the propose surgery entailed and was optimistic about the outcome. The patient appeared motivated to participate as an active partner in treatment. The pain was not psychological in origin and there did not appear to be any major psychological factors which would preclude

the patient from undergoing spine surgery. The patient's overall risk, as determined by the Block (2001) model determined that the patient was in the good outcome category for surgery. This is a review of medical necessity for L5- S1 transforaminal lumbar interbody fusion, cage/screws surgery. Mechanism of injury: According to Confidential Psychological Evaluation dated 3/1/13 by [REDACTED], Ph.D., the patient sustained an injury while lifting a 350-pound patient at work. Current medications: According to office visit notes dated 6/20113 by Dr. [REDACTED], the patient wCtS on high-dose narcotic pain medication, including tramadol, OxyContin, and Vicodin without pain relief. Dose and scheduled use of the medications were not documented. Surgeries: Not documented in the clinical records submitted with this request. Diagnostic imaging and other therapies: Computed tomography (CT) lumbar discogram dated 5/28/13, interpreted by Dr. [REDACTED] documented that at L4-L5, there was a slight protuberance of contrast along the left posterolateral margin suggesting grade I annular tear. This was subtle. No frank disc herniation, central canal or neural foramina! stenosis was seen. No bulky facet osteophytes. At L5-S 1, diffused contrast extension through the disc was noted with more localized extension posteriorly in the midline compatible with areas of grade IV-V annular tear with localized central disc herniation. There was disc herniation centrally with cephalad extrusion. There was no frank central spinal stenosis. Disc material and contrast abutted the traversing S 1 nerve roots, right greater than left. There were intact neural foramina. There were no bulky feed osteophytes. Spina bifida occulta of sacroiliac (SI) was incidentally noted which was typical considering this was an incidental finding. No wedge compression deformity. No spondylolysis or spondylolisthesis. No bony destructive lesion seen. Visualized portions of the SI joints appear intact. There was no abdominal aortic aneurysm. There was symmetric paraspinous musculature. Mild hyperdensity of medullary pyramids bilaterally was subtle although raised the possibility of mild medullary sponge kidney. This was very subtle, however. No frank localized renal calculi were identified. Magnetic resonance imaging (MRJ) of the lumbar dated 2/13/13, interpreted by Dr. [REDACTED] documented that at the L5-S 1 level, there was a right paramedian disc extrusion seen measuring 6 mm in size. This disc material was seen abutting the thecal sac and the origin of the right S 1 nerve root, however there was no evident displacement of this nerve root seen. No significant facet hypertrophy was seen. No frank central stenosis or significant neural foramina! narrowing identified on the current examination. According to office visit notes dated 6/20113 by Dr. [REDACTED] the patient had failed extensive conservative treatment, including extensive physical therapy and lumbar epidural injections. According to Progress Note dated 1/29/13 by [REDACTED], PT, MPT, OCS, the patient had attended 5 physical therapy visits between the dates of 11/11/13 and 1/39/13. The patient reported that symptoms were grossly the same since initiating therapy and continued to be easily aggravated with sitting/standing greater than 10 minutes and general household chores. According to Operative Report dated 11/16/12 by Dr. [REDACTED], the patient underwent lumbar transforaminal epidural steroid injection, right L5-S 1. According to Operative Report dated 8/21/12 by Dr. [REDACTED], the patient underwent right sacroiliac joint injection. According to Operative Report dated 4/12/12 by Dr. [REDACTED] the patient underwent lumbar epidural steroid injection at L5-S1. Reason given for request: Not documented in the clinical records submitted with this request."

**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 7/18/2013
- Utilization Review Determination provided by [REDACTED], dated 7/20/2013
- Medical Records from 03/12/2012 through 7/01/2013
- Medical Treatment Utilization Schedule (MTUS)

**1) Regarding the request for lumbar spine fusion, cage/screws surgery with assistant, and 3 day inpatient hospital stay :****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 2<sup>nd</sup> Edition, Low Back Complaints, page 307, of the Medical Treatment Utilization Schedule (MTUS), and the Official Disability Guidelines, Current Version, Low Back Chapter, a Medical Treatment Guideline (MTG) not part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the MTUS ACOEM guidelines used by the Claims Administrator applicable and relevant to the issue at dispute.

**Rationale for the Decision:**

The employee injured the low back on 12/10/2011. The submitted and reviewed medical records indicate that the employee has had X-Rays, MRIs, CT lumbar discogram, physical therapy, epidural steroid injections, and pain medications. The most recent medical report, dated 6/20/2013, indicate that the employee continued to have severe midline lumbosacral back pain extending into the gluteal area on a constant basis and described as progressive and disabling. A request was submitted for lumbar spine fusion, cage/screws surgery with assistant, and a three day hospital stay.

CA MTUS ACOEM guidelines suggest that lumbar fusion can be considered if there is structural instability introduced either iatrogenically or in degenerative spondylolisthesis. The reviewed medical records indicate that the employee has chronic low back pain, but there is no clinically documented evidence of spinal stenosis or instability in the lumbar spine to justify spinal fusion surgery. The request for lumbar spinal fusion, cage/screws surgery with assistant, and a three day 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  
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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.