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**of Independent Medical Review Determination**

Dated: 10/10/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee:

Claim Number:

Date of UR Decision:

Date of Injury:

IMR Application Received:

MAXIMUS Case Number:

[REDACTED]

7/10/2103

1/17/2012

7/19/2013

CM13-0002133

- 1) MAXIMUS Federal Services, Inc. has determined the request for an L4 - L5 discectomy with pre op clearance **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for post op physical therapy two times a week for twelve weeks **is not medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/19/2013 disputing the Utilization Review Denial dated 7/10/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/24/2013. 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 an L4 - L5 discectomy with pre op clearance **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for post op physical therapy two times a week for twelve weeks **is not medically necessary and appropriate.**

### **Medical Qualifications of the Expert Reviewer:**

The independent expert reviewer who made the decision has no affiliation with the employer, employee, providers or the claims administrator. The physician reviewer is Board Certified in Orthopedic 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 July 5, 2013:

“This is a patient with a date of birth 09/19/1973 and date of injury 01/17/2012 with a history of injury to the lumbosacral spine area and a request for L4-5 discectomy. I reviewed the provider's new MRI that was submitted as well as a peer-to-peer review that was done 03/05/13 by me after speaking with the provider. During my peer-to-peer review process, the provider asked me if I could certify a provocative discogram. I explained at the time to the provider that based on the ODG guidelines criteria for requested provocative discogram could not be certified as this patient was not a candidate for fusion or even for discectomy based upon the submitted evidence. At that time I explained to the provider that the disc protrusion was only 2 mm.

The provider has submitted another MRI currently, dated 05/21/2013. I reviewed the new MRI which shows at L4-5 the disc measuring only 3.5 mm which is a broad-based disc protrusion that abuts the thecal sac, produces bilateral neural foraminal narrowing and posterior annular fissure. The rest of the MRI looks normal.”

### **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 (received 07/19/2013)

- Utilization Review Determination from [REDACTED] (dated 07/10/2013)
- Employee medical records from Employee/Employee Representative
- Medical Treatment Utilization Schedule(MTUS)

**1) Regarding the request for an L4 - L5 discectomy with pre op clearance:**

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), 2<sup>nd</sup> Edition, (2004), which is part of Medical Treatment Utilization Schedule (MTUS), but did not cite a specific page or section. The Claims Administrator also cited the Official Disability Guidelines (ODG), which is a medical treatment guideline that is not a part of the MTUS, but did not cite a specific section. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer relied on the ACOEM Guidelines, Low Back Chapter, Surgical Considerations section, which is part of the MTUS.

Rationale for the Decision:

The employee sustained a work-related injury on January 17, 2012 to the lower back. Treatments have included physical therapy, acupuncture, epidural steroid injection, cortisone injections, a back brace, and medication management. The request is for an L4 - L5 discectomy with pre op clearance.

The ACOEM Guidelines indicate this procedure may be considered necessary if there are severe disabling lower leg symptoms in a distribution consistent with abnormalities on imaging studies documenting radiculopathy preferably with accompanying objective signs of neural compromise, and electrophysiological evidence of lesion. The medical records submitted for review lack evidence of significant neurological deficits on the most recent clinical exam, there is no evidence of psychosocial evaluation or documentation of significant current conservative care. The request for an L4 - L5 discectomy with pre op clearance **is not medically necessary and appropriate.**

**2) Regarding the request for post op physical therapy two times a week for twelve weeks:**

Rationale for the Decision:

Since the L4 - L5 discectomy with pre op clearance is not medically necessary, the associated post op service is also **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, 18<sup>th</sup> Floor  
Oakland, CA 94612

/hs

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.