

Case Number:	CM13-0038785		
Date Assigned:	12/18/2013	Date of Injury:	04/29/2002
Decision Date:	06/03/2014	UR Denial Date:	09/27/2013
Priority:	Standard	Application Received:	10/02/2013

HOW THE IMR FINAL DETERMINATION WAS MADE

MAXIMUS Federal Services sent the complete case file to an expert reviewer. He/she has no affiliation with the employer, employee, providers or the claims administrator. The expert 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 disputed items/services. He/she is familiar with governing laws and regulations, including the strength of evidence hierarchy that applies to Independent Medical Review determinations.

CLINICAL CASE SUMMARY

The expert reviewer developed the following clinical case summary based on a review of the case file, including all medical records:

The patient is a 57 year old female who was injured on 04/29/2002 while lifting, bending and carrying heavy boxes of paper when the patient started to have severe sharp low back pain. The pain radiated into the right lower extremity with pain, numbness and weakness in the right lower extremity. Prior treatment history has included anti-inflammatory medication, physical therapy, bracing, epidural injections with the last one in February of 2012, which was very helpful for about one week; she received about three injections per year and she has done so for the past nine years, acupuncture, spinal cord stimulator trial which unfortunately provided only 50% pain relief, L4-5 transforaminal injection (12/19/2012) with very good pain relief, and the patient has had previous psychological evaluation as well and it has been stable. She had a discectomy at L3-4 performed by [REDACTED] in 2002 and had about 30% improvement. Diagnostic studies reviewed include EMG/nerve conduction study (May 2012) which demonstrated abnormal study with the presence of radiculopathy related to right L4. Lumbar x-rays 09/19/2013 demonstrated the presence of grade I spondylolisthesis at L4-5 with evidence of motion on flexion and extension. Spine follow up progress report dated 09/19/2013 documented the patient to have complaints of worsening low back pain, worsening right worse than left leg pain, numbness and weakness continued despite several years of excellent and exhaustive conservative care, worsening back pain radiating into the legs for the past several years, getting worse and unresponsive to excellent and exhaustive conservative care. Because of the right leg pain, numbness and weakness she has had episodes of right knee "buckling". Currently the pain level is significantly improved since the epidural injection of 12/19/2012. She still does have some residual pain. Severity of symptoms are moderate and frequent. She has a past medical history positive for diabetes, high blood pressure and depression. There is no history of smoking or drinking. Objective findings on exam included worsening antalgic gait due to the right worse

than left leg pain. Pain to palpation over the L3-4, L4-5. Range of motion: flexion 40% of normal; extension 20% of normal; side to side bending 60% of normal, left and right. Motor strength: 5/5 proximally and distally bilaterally. Sensory: Diminished sensation in the right L4 distribution. DTR's absent right knee reflex, 1_ left knee reflex, otherwise absent bilateral Achilles reflexes. Straight leg raising is positive on the right side. Extension to 60 degrees causes pain radiating into the right calf. Negative on the left. Babinski is absent. Clonus is absent. Sacroiliac joint is tender on the right side, negative on the left side. Faber is positive on the right side and negative on the left side. Wadell's sign was negative. The diagnosis includes spondylolithesis of L3-4, L4-5, instability, disc herniation L3-4. L4-5, radiculopathy/radiculitis, right worse than left lower extremity and sacroillitis. The request for authorization is for spinal surgery of lateral L3-4, L4-5, discectomy, fusion and instrumentation, followed by posterior fusion and instrumentation at L3-4 and L4-5. The patient has positive objective findings correlating, positive EMG indicating right L4 radiculopathy and weakness in the right leg, extensor hallucis longus and anterior tibialis. The patient has exhausted an extensive list of excellent conservative treatments including medications, physical therapy, bracing, epidural injections, acupuncture, spinal surgery at L3-4 by [REDACTED], spinal cord stimulation trial and injections.

IMR ISSUES, DECISIONS AND RATIONALES

The Final Determination was based on decisions for the disputed items/services set forth below:

STAGE 1: L3-4, L4-5, LATERAL FUSION, DECOMPRESSION AND INSTRUMENTATION WITH NEURO MONITORING.: Upheld

Claims Administrator guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 308-310.

MAXIMUS guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back, Fusion (spinal).

Decision rationale: According to the medical records, lumbar x-rays 09/19/2013 demonstrated grade I spondylolisthesis at L4-5 on flexion/extension views. However, a grade I spondylolisthesis does not render the level unstable. According to the guidelines, spinal instability criteria includes lumbar inter-segmental movement of more than 4.5 mm. The imaging studies do not establish the presence of spinal instability to warrant consideration of further lumbar fusion. Spinal fusion Final Determination Letter for IMR Case Number CM13-0038785 4 in the absence of fracture, dislocation, unstable spondylolisthesis, tumor or infections, is not supported. It is all noted that the patient's neurological findings have remained stable; there is no indication of new red flags or progressive neurological deficit. It is also relevant that given her response to her prior fusion procedure, it is not established that the patient is likely to obtain better results with a second multilevel fusion procedure. In addition, the medical records document that the patient has continued with good pain relief as result of prior epidural injection provided in December 2012. In which case, less invasive conservative interventions would still be an appropriate treatment option. Based on this, the patient is not a candidate for lumbar spine

fusion. Therefore, the medical necessity of stage 1: L3-4, L4-5, Lateral fusion, Decompression and instrumentation with neuro monitoring has not been established.

STAGE 2: L3-4, L4-5, POSTERIOR LUMBAR FUSION, DECOMPRESSION AND INSTRUMENTATION WITH NEURO MONITORING.: Upheld

Claims Administrator guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 308-310.

MAXIMUS guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 307. Decision based on Non-MTUS Citation Disability Guidelines (ODG) Low Back, Fusion (spinal).

Decision rationale: The imaging studies do not establish the presence of spinal instability to warrant consideration of further lumbar fusion, the patient's neurological findings have remained stable, there is no indication of new red flags or progressive neurological deficit, and she continues with good pain relief from her December 2012 lumbar epidural steroid injection. The medical records do not establish the patient is a candidate for further spinal fusion. Therefore, the medical necessity of stage 2: L3-4, L4-5, posterior lumbar fusion, decompression and instrumentation with neuro monitoring has not been established.

IN-PATIENT HOSPITAL STAY FOR 5-7 DAYS.: Upheld

Claims Administrator guideline: The Claims Administrator did not cite any medical evidence for its decision.

MAXIMUS guideline: The Expert Reviewer did not cite any medical evidence for its decision.

Decision rationale: Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

PREOPERATIVE MEDICAL CLEARANCE.: Upheld

Claims Administrator guideline: The Claims Administrator did not cite any medical evidence for its decision.

MAXIMUS guideline: The Expert Reviewer did not cite any medical evidence for its decision.

Decision rationale: Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

VASCULAR SURGEON.: Upheld

Claims Administrator guideline: The Claims Administrator did not cite any medical evidence for its decision.

MAXIMUS guideline: The Expert Reviewer did not cite any medical evidence for its decision.

Decision rationale: Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

ASSISTANT SURGEON.: Upheld

Claims Administrator guideline: The Claims Administrator did not cite any medical evidence for its decision.

MAXIMUS guideline: The Expert Reviewer did not cite any medical evidence for its decision.

Decision rationale: Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

LSO LUMBAR BRACE.: Upheld

Claims Administrator guideline: The Claims Administrator did not cite any medical evidence for its decision.

MAXIMUS guideline: The Expert Reviewer did not cite any medical evidence for its decision.

Decision rationale: Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

COLD THERAPY UNIT.: Upheld

Claims Administrator guideline: The Claims Administrator did not cite any medical evidence for its decision.

MAXIMUS guideline: The Expert Reviewer did not cite any medical evidence for its decision.

Decision rationale: Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

BONE GROWTH STIMULATOR: Upheld

Claims Administrator guideline: The Claims Administrator did not cite any medical evidence for its decision.

MAXIMUS guideline: The Expert Reviewer did not cite any medical evidence for its decision.

Decision rationale: Since the primary procedure is not medically necessary, none of the associated services are medically necessary.