

<b>Case Number:</b>	CM13-0064290		
<b>Date Assigned:</b>	01/03/2014	<b>Date of Injury:</b>	09/05/2008
<b>Decision Date:</b>	11/26/2014	<b>UR Denial Date:</b>	11/22/2013
<b>Priority:</b>	Standard	<b>Application Received:</b>	12/11/2013

### 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 Texas. 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 injured worker is a 43-year-old male who sustained an industrial injury on 9/5/08. The mechanism of injury was not documented. Past surgical history was positive for multiple back surgeries with post-operative infections managed with long-term antibiotic therapy. Surgical details were not documented in the available records. Past medical history was negative for diabetes, hypertension, or immunocompromised condition. He denied smoking or drinking. Calculated body mass index was 43.4 based on the available records. The injured worker underwent posterior laminectomy and interbody fusion L5 and S1 with evacuation of hematoma and drainage at the incision site in May 2013. The treating physician progress reports dated 7/19/13 and 9/6/14 requested authorization to begin aquatic therapy for post-operative rehabilitation. A bone growth stimulator was requested to hasten the fusion of the lumbar spine. The 9/3/13 treating physician report indicated that the injured worker had left leg numbness and weakness. He was using a four-wheeled walker due to weakness. A physical exam documented diminished sensation over the entire left lateral thigh, left calf and dorsum of the left foot. Straight leg raise was positive on the left. There was 4/5 left extensor hallucis longus strength, and 4+/5 anterior tibialis strength. Lower extremity deep tendon reflexes are absent. An X-ray report from July indicated a solid fusion mass without evidence of hardware failure or other abnormalities. Authorization was again requested for aquatic therapy following spine surgery. Given his difficulty with ambulating any distance and need to use a four wheeled walker, aqua therapy seemed optimal to improve recovery. The 10/1/13 and 10/29/13 treating physician reports indicated the injured worker had continued low back pain with radicular lower extremity symptoms. The treatment plan again requested authorization for 12 visits of aquatic therapy and a bone growth stimulator for faster recovery from the fusion. The 11/22/13 utilization review denied the request for aqua therapy as there was no documentation of the type of prior post-op

therapy, response to that therapy, and the reason for alternative therapy. The request for a bone growth stimulator was denied as there was no documentation of risk factors for fusion failure or radiographic evidence suggestive of delayed or nonunion of the fusion.

### **IMR ISSUES, DECISIONS AND RATIONALES**

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

**Aqua therapy 12 sessions, for treatment of the lumbar spine:** Overturned

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Aqua Therapy.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Aquatic therapy Page(s): 22, Postsurgical Treatment Guidelines Page(s): 26.

**Decision rationale:** The California Post-Surgical Treatment Guidelines for surgical treatment of lumbar fusion suggest a general course of 34 post-operative physical medicine visits over 26 weeks, during the 6-month post-surgical treatment period. An initial course of therapy would be supported for one-half the general course. If it is determined that additional functional improvement can be accomplished after completion of the general course of therapy, physical medicine treatment may be continued up to the end of the postsurgical period. The type of physical medicine treatment is at the discretion of the surgeon. In general, aquatic therapy is recommended as an optional form of exercise therapy, as an alternative to land-based physical therapy. Guideline criteria have been met. This injured worker presents with lower extremity weakness and significant difficulty in ambulation. Records indicate that he is obese with a body mass index over 43. Exercise in a non-weight bearing environment was recommended as optimal for this injured worker. There is no evidence in the records that he has had any post-operative physical therapy rehabilitation. Therefore, the request for aqua therapy 12 sessions, for treatment of the lumbar spine is medically necessary.

**Bone Growth Stimulator:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Low Back- Lumbar & Thoracic (Acute & Chronic) Bone Growth Stimulator (BGS).

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back, Bone growth stimulators (BGS).

**Decision rationale:** The California Medical Treatment Utilization Schedule (MTUS) guidelines are silent regarding bone growth stimulators. The Official Disability Guidelines indicate that bone growth stimulators are under study and may be considered medically necessary as an adjunct to lumbar spinal fusion surgery for injured workers with any of the following risk factors for failed fusion: 1) One or more previous failed spinal fusion(s); (2) Grade III or worse spondylolisthesis; (3) Fusion to be performed at more than one level; (4) Current smoking habit;

(5) Diabetes, Renal disease, Alcoholism; or (6) Significant osteoporosis which has been demonstrated on radiographs. Guideline criteria have not been met. There is no evidence in the file suggesting that the injured worker has any of the guideline risk factors for failed fusion. However, prior surgical history is not clearly documented. The treating physician stated that x-rays showed a solid fusion mass in July 2013. There are no follow-up radiographs evidencing a delayed or failed fusion. Therefore, the request for a Bone Growth Stimulator is not medically necessary.