

<b>Case Number:</b>	CM14-0013498		
<b>Date Assigned:</b>	02/26/2014	<b>Date of Injury:</b>	01/23/2013
<b>Decision Date:</b>	08/13/2014	<b>UR Denial Date:</b>	01/28/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	02/03/2014

### 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 Minnesota. 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:

This is a 29-year-old male with a January 23, 2013 date of injury, after climbing through a window and jumping to the floor. The January 28, 2014 determination was non-certified given that the patient does not meet guideline criteria for the requested lumbar fusion, specifically instability. A January 31, 2014 medical report identifies modified duty for the patient and diagnoses. A January 8, 2014 report by [REDACTED] identifies that the primary complaint is radicular pain in the right leg. There are some paresthesias in the right posterolateral buttock radiating to his calf in the plantar aspect of his foot. Exam revealed that the patient is able to heel and toe walk in tandem. There is intact strength and sensation, with the exception of some mild posterolateral thigh numbness and decreased subjective sensation to light touch on the right side. Records indicate that the patient was seen for a second opinion by [REDACTED] and he did not recommend any surgical intervention. A December 13, 2013 permanent and stationary report by [REDACTED] identified conservative treatment was the most appropriate management and surgical intervention was not indicated. A December 9, 2013 lumbar spine MRI report identifies degenerative changes at the L4-5 level, which were similar compared to the prior MRI on March 15, 2013. Castellvi type 2A lumbosacral transitional vertebra, which as designated as L5 above the last well-defined non-desiccated intervertebral disc, and there is broadening of the left transverse process of L5, which forms a pseudoarticulation with the left side of the sacrum, stabilizing the L5-S1 level and leading to propensity for increased mobility and degenerative disc disease at the level above the stabilization (Bertolotti syndrome). Mild to moderate left neural foraminal narrowing at the L4-5 level, where there is disc desiccation, a 3mm broad-based posterior protrusion that extends into the left neural foramen, and mid hypertrophy of the facet joints. Specifically, the MRI identified no significant spinal stenosis, lateral recess stenosis, or neural foraminal narrowing. Treatment to date includes medication, physical therapy, and right

L5 and S1 transforaminal epidural steroid injecting (TFESI), right L4 transforaminal epidural steroid injecting (TFESI), physical therapy, and piriformis injection.

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

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

#### **Arthrodesis with Interbody Technique Including Laminectomy and/or Discectomy, Single Segment; L4-L5: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 305-307. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back Chapter.

**Decision rationale:** The California MTUS Guidelines states that there is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problem, in the absence of spinal fracture, dislocation, or spondylolisthesis if there is instability and motion in the segment operated on. The patient has radicular findings in the right leg in a L5-S1 distribution. Exam revealed only some mild posterolateral thigh numbness and decreased subjective sensation to light touch on the right side. There were no other significant findings of radiculopathy that would correlate with the requested levels. The MRI revealed degenerative changes at the L4-5 level, which were similar compared to the prior MRI on March 15, 2013, Bertolotti syndrome, and mild to moderate left neural foraminal narrowing at the L4-5 level. Specifically, the MRI identified no significant spinal stenosis, lateral recess stenosis, or neural foraminal narrowing. The patient was evaluated by two physicians who did not recommend a surgical procedure. There were no findings of instability to warrant a fusion, and no clear objective findings of radiculopathy at the requested levels. In addition, the MRI did not document nerve root pathology. The medical necessity for the requested procedure was not substantiated.

#### **Posterior Non-Segmental Instrumentation L4-L5: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 307. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back Chapter; as well as the Non-MTUS AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition criteria for Instability, page 379.

**Decision rationale:** The California MTUS Guidelines states that there is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problem, in the absence of spinal fracture, dislocation, or spondylolisthesis if there is instability and motion in the segment operated on. The patient has radicular findings in the right leg in a

L5-S1 distribution. Exam revealed only some mild posterolateral thigh numbness and decreased subjective sensation to light touch on the right side. There were no other significant findings of radiculopathy that would correlate with the requested levels. The MRI revealed degenerative changes at the L4-5 level, which were similar compared to the prior MRI on 3/15/13, Bertolotti syndrome, and mild to moderate left neural foraminal narrowing at the L4-5 level. Specifically, the MRI identified no significant spinal stenosis, lateral recess stenosis, or neural foraminal narrowing. The patient was evaluated by two physicians who did not recommend a surgical procedure. There were no findings of instability to warrant a fusion, and no clear objective findings of radiculopathy at the requested levels. In addition, the MRI did not document nerve root pathology. The medical necessity for the requested procedure was not substantiated.

**Allograft, Morselized or Placement of Osteopromotive Material, L4-L5: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 307. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back Chapter; as well as the Non-MTUS AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition criteria for Instability, page 379.

**Decision rationale:** The California MTUS Guidelines states that there is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problem, in the absence of spinal fracture, dislocation, or spondylolisthesis if there is instability and motion in the segment operated on. The patient has radicular findings in the right leg in a L5-S1 distribution. Exam revealed only some mild posterolateral thigh numbness and decreased subjective sensation to light touch on the right side. There were no other significant findings of radiculopathy that would correlate with the requested levels. The MRI revealed degenerative changes at the L4-5 level, which were similar compared to the prior MRI on March 15, 2013, Bertolotti syndrome, and mild to moderate left neural foraminal narrowing at the L4-5 level. Specifically, the MRI identified no significant spinal stenosis, lateral recess stenosis, or neural foraminal narrowing. The patient was evaluated by two physicians who did not recommend a surgical procedure. There were no findings of instability to warrant a fusion, and no clear objective findings of radiculopathy at the requested levels. In addition, the MRI did not document nerve root pathology. The medical necessity for the requested procedure was not substantiated.

**Laminectomy, Facetectomy and Foraminotomy L4-L5: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 305-307. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back Chapter, as well as the Non-MTUS AMA Guidelines, 5th Edition, pages 382-383.

**Decision rationale:** The California MTUS Guidelines states that surgical intervention is recommended for patients who have severe and disabling lower leg symptoms in the distribution consistent with abnormalities on imaging studies (radiculopathy), preferably with accompanying objective signs of neural compromise; activity limitations due to radiating leg pain for more than one month or extreme progression of lower leg symptoms; clear clinical, imaging, and electrophysiologic evidence of a lesion that has been shown to benefit in both the short and long-term from surgical repair; and failure of conservative treatment. The patient has radicular findings in the right leg in a L5-S1 distribution. Exam revealed only some mild posterolateral thigh numbness and decreased subjective sensation to light touch on the right side. There were no other significant findings of radiculopathy that would correlate with the requested levels. The MRI revealed degenerative changes at the L4-5 level, which were similar compared to the prior MRI on March 15, 2013, Bertolotti syndrome, and mild to moderate left neural foraminal narrowing at the L4-5 level. Specifically, the MRI identified no significant spinal stenosis, lateral recess stenosis, or neural foraminal narrowing. The patient was evaluated by two physicians who did not recommend a surgical procedure. There were no findings of instability to warrant a fusion, and no clear objective findings of radiculopathy at the requested levels. In addition, the MRI did not document nerve root pathology. The medical necessity for the requested procedure was not substantiated.

#### **Laminectomy, Facetomy and Foraminotomy L5-S1: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 305-307. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back Chapter, as well as the Non-MTUS AMA Guidelines, 5th Edition, pages 382-383.

**Decision rationale:** The California MTUS Guidelines states that surgical intervention is recommended for patients who have severe and disabling lower leg symptoms in the distribution consistent with abnormalities on imaging studies (radiculopathy), preferably with accompanying objective signs of neural compromise; activity limitations due to radiating leg pain for more than one month or extreme progression of lower leg symptoms; clear clinical, imaging, and electrophysiologic evidence of a lesion that has been shown to benefit in both the short and long-term from surgical repair; and failure of conservative treatment. The patient has radicular findings in the right leg in a L5-S1 distribution. Exam revealed only some mild posterolateral thigh numbness and decreased subjective sensation to light touch on the right side. There were no other significant findings of radiculopathy that would correlate with the requested levels. The MRI revealed degenerative changes at the L4-5 level, which were similar compared to the prior MRI on March 15, 2013, Bertolotti syndrome, and mild to moderate left neural foraminal narrowing at the L4-5 level. Specifically, the MRI identified no significant spinal stenosis, lateral recess stenosis, or neural foraminal narrowing. The patient was evaluated by two physicians who did not recommend a surgical procedure. There were no findings of instability to warrant a fusion, and no clear objective findings of radiculopathy at the requested levels. In addition, the MRI did not document nerve root pathology. The medical necessity for the requested procedure was not substantiated.

**Arthrodesis with Interbody Technique Including Laminectomy and/or Discectomy, Single Segment; L5-S1: Upheld**

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**Decision rationale:** The California MTUS Guidelines states that surgical intervention is recommended for patients who have severe and disabling lower leg symptoms in the distribution consistent with abnormalities on imaging studies (radiculopathy), preferably with accompanying objective signs of neural compromise; activity limitations due to radiating leg pain for more than one month or extreme progression of lower leg symptoms; clear clinical, imaging, and electrophysiologic evidence of a lesion that has been shown to benefit in both the short and long-term from surgical repair; and failure of conservative treatment. The patient has radicular findings in the right leg in a L5-S1 distribution. Exam revealed only some mild posterolateral thigh numbness and decreased subjective sensation to light touch on the right side. There were no other significant findings of radiculopathy that would correlate with the requested levels. The MRI revealed degenerative changes at the L4-5 level, which were similar compared to the prior MRI on March 15, 2013, Bertolotti syndrome, and mild to moderate left neural foraminal narrowing at the L4-5 level. Specifically, the MRI identified no significant spinal stenosis, lateral recess stenosis, or neural foraminal narrowing. The patient was evaluated by two physicians who did not recommend a surgical procedure. There were no findings of instability to warrant a fusion, and no clear objective findings of radiculopathy at the requested levels. In addition, the MRI did not document nerve root pathology. The medical necessity for the requested procedure was not substantiated.

**Posterior Non-Segmental Instrumentation L5-S1: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 307. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back Chapter; as well as the Non-MTUS AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition criteria for Instability, page 379.

**Decision rationale:** The California MTUS Guidelines states that there is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problem, in the absence of spinal fracture, dislocation, or spondylolisthesis if there is instability and motion in the segment operated on. The patient has radicular findings in the right leg in a L5-S1 distribution. Exam revealed only some mild posterolateral thigh numbness and decreased

subjective sensation to light touch on the right side. There were no other significant findings of radiculopathy that would correlate with the requested levels. The MRI revealed degenerative changes at the L4-5 level, which were similar compared to the prior MRI on March 15, 2013, Bertolotti syndrome, and mild to moderate left neural foraminal narrowing at the L4-5 level. Specifically, the MRI identified no significant spinal stenosis, lateral recess stenosis, or neural foraminal narrowing. The patient was evaluated by two physicians who did not recommend a surgical procedure. There were no findings of instability to warrant a fusion, and no clear objective findings of radiculopathy at the requested levels. In addition, the MRI did not document nerve root pathology. The medical necessity for the requested procedure was not substantiated.

**Allograft, Morselized or Placement of Osteopromotive Material, L5-S1: Upheld**

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

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**Inpatient Hospital Stay (3-days): Upheld**

**Decision rationale:** Given that the requested surgical procedure was not medically necessary. The requested associated request for inpatient stay was also not medically necessary.

**Assistant Surgeon: Upheld**

**Decision rationale:** Given that the requested surgical procedure was not medically necessary. The requested associated request for an assistant surgeon was also not medically necessary.