

<b>Case Number:</b>	CM14-0114008		
<b>Date Assigned:</b>	08/01/2014	<b>Date of Injury:</b>	06/03/2013
<b>Decision Date:</b>	09/10/2014	<b>UR Denial Date:</b>	07/10/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	07/22/2014

### 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 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 female who reported injury on 06/03/2013. The diagnoses included lumbar herniated nucleus pulposus, annular tears at L4-5, lumbar disc collapse arthropathy and facet arthropathy. Her treatments included physical therapy and a selective nerve root block. The injured worker underwent an MRI of the lumbar spine on 07/23/2013 which revealed at the level of L3-4 and L4-5 there was disc dehydration and to a lesser extent it was present at L5-S1. There were anterior annulus tears noted at these levels. There was some mild edema in the posterior aspect of the L5 pedicles and in the superior aspect of the facets at L5 suggesting a stress response without definite evidence of stress fracture or spondylosis. At the level of L4-5 there was mild facet arthrosis and hypertrophy. The broad disc bulge nearly abutted the descending nerve roots within the lateral recess although there was no definite displacement or impingement identified. The neural foramina were mildly narrowed by the mild to moderate facet arthrosis bilaterally although no definite nerve root abutment, displacement or impingement was seen in the foramina either. There was an equivocal 1 to 2 mm of anterolisthesis of L4 on L5 without evidence of spondylosis. At the level of L5-S1, there was a mild broad posterior disc bulge of 3 mm similar to the level above. This was noted to indent the epidural fat but did not cause any central canal encroachment. The lateral recesses were mildly encroached upon with definite nerve root abutment displacement or impingement. The neural foramina were similarly mildly encroached upon by far posterolateral and far lateral disc osteophytic ridging without definite nerve root abutment, displacement or impingement. The injured worker underwent a CT of the lumbar spine without contrast on 04/04/2014 which revealed there were small anterior osteophytes at L3-4 through L5-S1 levels and there was mild disc height loss at L3-4, L4-5 and L5-S1. There was minimal dextroscoliosis. The vertebral bodies were normal in height without evidence of compression fractures. Additionally, there

was degeneration within the lumbar most prominent at L4-5 and L5-S1 and there was minimal scoliosis. The physician documentation of 05/28/2014 revealed the injured worker had a repeat MRI which demonstrated the development of large facet cyst in one of the arthroplastic joints at L4-5 where she has a spondylolisthesis. The documentation indicated the injured worker was now on morphine and Dilaudid for pain management. The physician opined a 1-level fusion would be essentially useless. The physical examination revealed severe spasms in her back, left anterior tibialis weakness of 4/5 and EHL weakness of 4/5 that was likely consistent with the injured worker's large synovial facet cyst and lateral recess stenosis. The injured worker underwent flexion and extension films that demonstrated a 4 mm of anterolisthesis of L4 upon L5 and the injured worker had retrolisthesis at L3-4 and a fairly collapsed disc at L5-S1. The documentation indicated the injured worker had an extensive effort and conservative care and the treatment plan included a 3-level collapsed disc case with 1 level in the midst of her other 1 levels demonstrating both spondylolisthesis and facet arthropathy and now facet cyst formation. The request would be for a retroperitoneal approach to L4-5 and L5-S1 with fusion devices, a laterally placed L3-4 device and posterior instrumentation complimented with a left L4-5 lateral recess decompression and 2 separate days of staging, a 3 to 5 day hospital stay, 3 to 6 months of convalescence including another 24 sessions of physical therapy and the physician opined at approximately 6 months postsurgical would consider whether the injured worker was a candidate to return not work or note. Additionally, a request was made for a bone stimulator postoperatively to enhance the fusion given a 3 level fusion.

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

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

#### **Retropartioneal Approach to L4-5 and L5-S1 with Fusion Devices, a Laterally Placed L3-4 Device and Posterior Instrumentation: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 307-309.

**Decision rationale:** The ACOEM Guidelines indicate a surgical consultation is appropriate for injured workers who have severe and disabling lower leg symptoms in a distribution consistent with abnormalities on imaging preferably with accompanying objective signs of neural compromise, activity limitations due to radiating leg pain or for more than 1 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 the failure of conservative treatment to resolve disabling radicular symptoms. The ACOEM Guidelines indicate that there is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problems in the absence of spinal fracture, dislocation or spondylolisthesis if there is instability and motion in the segment operated on. There would be no electrophysiologic evidence that would support a fusion. The physician opined the injured worker's weakness at the anterior tibialis and EHL were contributed to the large synovial facet cyst and lateral recess stenosis. The physician documentation indicated the

injured worker had a more recent MRI which revealed a facet cyst; however, it was not provided for review to support that the injured worker had a large synovial facet cyst and lateral recess stenosis. The injured worker had retrolisthesis and anterolisthesis of L4 on L5 and a collapsed disc at L5-S1. Given the above, the request for retroperitoneal approach to L4-5 and L5-S1 with fusion devices, a laterally placed L3-4 device and posterior instrumentation is not medically necessary.

## **2 Separate Days of Staging: 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:** As the primary service is not supported, this associated service is also not supported.

## **3 to 5 Days Inpatient Stay: 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), LOS Data.

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

**Decision rationale:** As the primary service is not supported, this associated service is also not supported.

## **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, Bone Growth Stimulator.

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

**Decision rationale:** As the primary service is not supported, this associated service is also not supported.