

<b>Case Number:</b>	CM14-0167315		
<b>Date Assigned:</b>	10/14/2014	<b>Date of Injury:</b>	02/21/2014
<b>Decision Date:</b>	11/26/2014	<b>UR Denial Date:</b>	10/03/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	10/10/2014

### 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 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:

This is a 43-year-old male nursing assistant who injured his back while helping with a combative patient on 02/21/14. The report of an MRI of the lumbar spine without contrast on 03/25/14 showed a Grade I spondylolisthesis of 6 millimeters at the L5 level and anteriorly at the S1 level. There was moderate bilateral neural foraminal narrowing at the L5-S1 level. The remainder of the study was grossly unremarkable and there was no documentation of a left-sided disc herniation. X-rays of the lumbosacral spine in what appeared to be flexion/extension views showed an L5-S1 anterolisthesis stable in flexion and neutral in extension with bilateral chronic L5 pars defects. The claimant underwent left-sided L5-S1 transforaminal epidural injections on 05/08/14 and 07/09/14. In addition to the epidural steroid injections, it was documented that the claimant failed conservative treatment of physical therapy, anti-inflammatories, muscle relaxants, and narcotics. The claimant underwent a comprehensive psychological evaluation on 08/29/14 and was documented to be a nonsmoker. The evaluation documented that the claimant had a good understanding of fusion surgery, was a good medical consumer, asked excellent questions, had been compliant with physical therapy program, and was not at risk for abusing medications. It was also documented that the claimant had great confidence in his physician's ability to perform the surgery. The formal testing cleared him surgically from a psychological standpoint with minimal symptoms of anxiety and depression, and no concerns that would prevent the psychologist from recommending the claimant to undergo fusion surgery. The office note dated 09/10/14 documented diagnoses of brachial neuritis, spinal stenosis of the lumbar region, low back pain, acquired spondylolisthesis, and disorder of the trunk. At the time of the office visit the claimant had low back pain with associated leg pain which was worsening. Physician examination was documented as a normal gait, no use of an assistive device for ambulation, soft tissue palpation of the left lower side of the lumbar spine showed tenderness of

the iliolumbar region. Active range of motion was documented as lateral flexion to the left at 15 degrees and to the right at 15 degrees. Flexion was to 45 degrees and extension to 20 degrees. There was pain noted with motion. There was decreased strength of left ankle dorsiflexion, tibialis anterior and great toe graded at 4/5. There was also decreased strength of the plantar flexor, gastrocnemius, and ankle eversion also graded at 4/5. Sensation of the left lower extremity was decreased in the lateral leg and dorsum of the foot. There was also decreased sensation in the small of the foot and posterior leg. The claimant had a positive supine straight leg raise test. The recommendation was made for an L5-S1 anterior-posterior lumbar decompression and fusion with instrumentation and use of allograft.

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

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

#### **L5-S1 ANTERIOR POSTERIOR LUMBAR DECOMPRESSION FUSION WITH INSTRUMENTATION AND USE OF ALLOGRAFT: Overturned**

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints.

**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: Fusion (spinal)

**Decision rationale:** Based on the California ACOEM Guidelines and supported by the Official Disability Guidelines, the request for an L5-S1 anterior posterior lumbar decompression and fusion with instrumentation and use of allograft is recommended as medically necessary. The medical records document that the claimant has diagnostic evidence in the form of plain radiographs, flexion/extension radiographs, and MRI confirming spondylolisthesis of a significant magnitude. The claimant has radicular findings at the L5-S1 level based on reported symptoms as well as abnormal physical examination findings. The claimant has failed a reasonable and exhaustive course of conservative treatment and has also undergone clearance from a psychologist explaining that he is medically stable and cleared for surgical intervention. The claimant is noted to be a nonsmoker. Based on the documentation presented for review and in accordance with California ACOEM and Official Disability Guidelines, the request for the L5-S1 anterior posterior lumbar decompression and fusion with instrumentation and use of allograft would be considered medically reasonable.

#### **PREOPERATIVE CLEARANCE: Overturned**

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

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation American College of Occupational and Environmental Medicine (ACOEM), 2nd Edition, (2004); ACOEM Chapter 7, page 127.

**Decision rationale:** California ACOEM Guidelines note that consultants are typically diagnosis, prognosis, and therapeutic management, determination of medical stability, permanent residual loss and/or the examinee's fitness for return to work. The consultant is usually asked to act in an advisory capacity but may sometimes take full responsibility for investigation and/or treatment of an examinee or patient. Given the fact that the claimant is to undergo a significant lumbar spine procedure to include fusion, it would be considered medically reasonable to proceed with preoperative medical clearance. The request for preoperative medical clearance can be considered medically reasonable and necessary.

**INTRA OPERATIVE MONITORING:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation OFFICIAL DISABILITY GUIDELINES

**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 chapter: Intraoperative neurophysiological monitoring (during surgery)

**Decision rationale:** California MTUS and ACOEM Guidelines do not provide criteria relevant to this request. The Official Disability Guidelines note that intraoperative neurophysiological monitoring during surgery is recommended during spinal or intracranial surgeries when such a procedure has significant risk for complications that can be detected and prevented through the use of neuropsychological monitoring. The procedure of a lumbar spine fusion would be considered appropriate for use of intraoperative monitoring. The request can be considered medically reasonable.

**1-2 DAYS HOSPITAL STAY:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation OFFICIAL DISABILITY GUIDELINES

**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 chapter: Hospital length of stay (LOS)

**Decision rationale:** California MTUS and ACOEM Guidelines do not provide criteria relevant to this request. The Official Disability Guidelines recommend a best practice target of three days inpatient stay following an anterior posterior lumbar fusion. The request for 1-2 days falls within the recommended guidelines for length of stay and would be considered medically reasonable.

**12 POSTOPERATIVE PHYSICAL THERAPY SESSIONS:** Overturned

**Claims Administrator guideline:** Decision based on MTUS Postsurgical Treatment Guidelines.

**MAXIMUS guideline:** Decision based on MTUS Postsurgical Treatment Guidelines.

**Decision rationale:** California MTUS Postsurgical Rehabilitation Guidelines support 34 visits of physical therapy over sixteen weeks for up to six months following lumbar fusion. Subsequently, the request for twelve visits falls short of the maximum amount of visits and would be considered medically necessary.

**BACK BRACE:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 300. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG); Low Back chapter: Back brace, post operative (fusion)

**Decision rationale:** California ACOEM Guidelines and the Official Disability Guidelines do not support the request for postoperative use of a back brace. The Official Disability Guidelines notes that currently postoperative back braces are considered under study. There is no scientific information proving the benefit of bracing improves fusion rates or clinical outcomes following instrumented lumbar fusion for degenerative disease. There is no documentation in the records provided for review clarifying whether the requested brace is a custom postoperative brace or standard brace which would be imperative to know prior to considering medical necessary. There is no documentation supporting that the use of a back brace in the postoperative setting for the lumbar fusion requested would overall improve the short or long term prognosis of the claimant. The request cannot be considered medically necessary.

**COLD THERAPY UNIT:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation OFFICIAL DISABILITY GUIDELINES

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 287-289. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG); Low Back chapter: Cold/heat packs

**Decision rationale:** Based on the California ACOEM Guidelines and supported by the Official Disability Guidelines, the request for a cold therapy unit is not recommended as medically necessary. Both ACOEM and ODG recommend the use of cold packs in the home setting for low back pain. However, the evidence for application of cold treatment to low back pain is more limited than heat therapy with only three poor-quality studies located that support its use. The studies confirm that it may be a low risk, low cost option. There is minimal evidence supporting the use of cold therapy but heat therapy has been found to help for pain reduction and return to normal function. Given the fact that cold packs are considered the traditional first line conservative durable medical equipment thermal option and there is no documentation suggesting why this would not be acceptable form of a pain reduction modality following the fusion surgery, the request for the continuous cold therapy unit for the low back following spinal fusion cannot be considered 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

**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 chapter: Bone growth stimulators (BGS)

**Decision rationale:** California MTUS and ACOEM Guidelines do not provide criteria relevant to this request. The Official Disability Guidelines note that currently bone growth stimulators are under study. There is conflicting evidence so case-by-case recommendations are necessary. Limited evidence exists for improving fusion rate of spinal fusion surgery in high-risk cases such as revision pseudarthrosis, instability, and smoking. There is no documentation suggesting that the claimant is at high risk for developing a nonunion at his fusion site. The claimant is noted to be a nonsmoker. The request for the bone growth stimulator cannot be considered medically necessary based on documentation presented for review and in accordance with Official Disability Guidelines.

**ASSISTANT SURGEON: Overturned**

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation OFFICIAL DISABILITY GUIDELINES

**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 chapter: Surgical assistant

**Decision rationale:** California MTUS and ACOEM Guidelines do not provide criteria relevant to this request. The Official Disability Guidelines notes that surgical assistants are recommended as an option in more complex lumbar spine surgeries. Given the fact that lumbar fusion surgery with an anterior and posterior approach is considered as a complex surgery by Official Disability Guidelines, the request for the assistant surgeon can be considered medically necessary.