

<b>Case Number:</b>	CM14-0024771		
<b>Date Assigned:</b>	06/11/2014	<b>Date of Injury:</b>	09/15/2012
<b>Decision Date:</b>	12/08/2014	<b>UR Denial Date:</b>	02/19/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	02/26/2014

### 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 Physical Medicine and Rehabilitation, has a subspecialty in Interventional Spine 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 43-year-old male with a date of injury of 09/15/2012. The listed diagnoses per [REDACTED] are: 1. Disk herniation L4 to S1 with nerve root impingement and positive EMG. 2. Right L5 to S1 facet cyst. 3. Severe L5 to S1 pain unresponsive to a year of conservative treatment including PT, medications, ESI, and pain management. 4. T11 to T12 severe painful disk level, positive pain on discography. 5. Grade 1 retrolisthesis at L5 to S1, continued severe pain despite conservative treatment. 6. Onset of partial bladder incontinence episodes getting progressively worse as a result of the spinal pathology. According to progress report 01/23/2014, this patient presents with low back pain and right lower extremity pain with numbness and weakness which is progressively getting worse. Pain is rated as 7-10/10. Patient reports episodes of bladder incontinence and has had several emergency room visits with extensive retention of bladder with 700 mL residual. Treatment history includes medications, PT, bracing, ESI, modification of activities, chiro treatments, and discography. Examination of the lumbar spine revealed pain to palpation over the lumbar spine L4 to L5, L5 to S1 with palpable paraspinal muscle spasms. Range of motion is limited secondary to pain. Motor strength is 4-/5 right gastroc soleus, 4/5 right extensor hallucis longus, iliopsoas 5-/5 on the right side. Sensory exam is diminished in the right leg in the L5 to S1 distribution. Straight leg raise test is positive on the right. MRI of the lumbar spine from 01/11/2014 revealed L3 to L4, L4 to L5, and L5 to S1 "there is a broad-based bulge which in conjunction with facet hypertrophy contributes to mild to moderate bilateral neuroforaminal narrowing and mild central canal narrowing." The treater reviews an MRI from 05/23/2013 and notes his findings are as follows, "There is mild facet arthropathy. A very small disk bulge is noted at L4 to L5, non-compressive. There is also a cystic change noted in the right facet joint in the L5 to S1, best appreciated on the axial views

slides 26 and 27 axial T2." Discogram of 07/17/2013 reported "normal L3 to L4 and L4 to L5 disks. L5 to S1 reproduced concordant pain at 8/10 typical pain. Also, it was extremely painful as well." EMG/NCV study (date of study unnoted) demonstrated moderate acute L5 to S1 radiculopathy and left S1 radiculopathy. The treater is requesting lumbar spine surgery, neuromonitoring, inpatient stay, lumbar brace, and a bone growth stimulator. Utilization review denied the request on 02/19/2014. The medical file provided for review includes a MRI of the lumbar spine from 01/11/2014 and one treatment report by [REDACTED] from 01/23/2014.

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

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

#### **EMERGENT L5-S1 DECOMPRESSION, FUSION, INSTRUMENTATION, ANTERIOR, POSTERIOR, ASSISTANT SURGEON, VASCULAR CO-SURGEON: 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. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back - Lumbar & Thoracic (Acute & Chronic) chapter, Fusion (spinal)

**Decision rationale:** This patient presents with chronic low back pain with bladder incontinence episodes. The treater is requesting "emergent L5 to S1 decompression, fusion, instrumentation, anterior, posterior, assistant surgeon, vascular co-surgeon." ACOEM guidelines has the following regarding lumbar fusion (p307), "Except for cases of trauma related spinal fracture or dislocation, fusion of the spine is not usually considered during the first three months of symptoms. Patients with increased spinal instability (not work related) after surgical decompression at the level of degenerative spondylolisthesis may be candidates for fusion." Other indications include multiple herniation on the same level, mechanical back pain in non-work-comp population, revision surgery, etc. ODG guidelines provide a specific discussion regarding fusion surgery for worker's compensation cases. It states, "In cases of workers' compensation, patient outcomes related to fusion may have other confounding variables that may affect overall success of the procedure, which should be considered. Until further research is conducted there remains insufficient evidence to recommend fusion for chronic low back pain in the absence of stenosis and spondylolisthesis, and this treatment for this condition remains "under study." "Pre-surgical biopsychosocial variables predict patient outcomes from lumbar fusion, which may help improve patient selection. Workers' compensation status, smoking, depression, and litigation were the most consistent pre-surgical predictors of poorer patient outcomes." In this case, the patient presents with radiculopathy and neurological deficits. But, there is no evidence of segmental instability, spondylolisthesis, fracture or dislocation requiring lumbar fusion. ODG guidelines support possible fusion surgery for spondylolisthesis and "primary mechanical back pain (i.e., pain aggravated by physical activity)/functional Spinal Unit Failure/Instability, including one or two level segmental failure with progressive degenerative changes, loss of height disc loading capability," but "In cases of workers' compensation, patient outcomes related to fusion may have other confounding variables that may affect overall success of the procedure, which should be considered." MRI from 1/11/14 showed multi-level mild

spinal stenosis with bulging discs. Segmental instability has not been demonstrated via flex/ext films. Discogram was positive at L5-S1, but ACOEM does not support discograms unless fusion is a realistic consideration which is not in this patient. Given the lack of specific indications for lumbar fusion, and the recommendation against fusion surgery for worker's comp population per ODG except in the situations where instability, fracture, dislocation are demonstrated, recommendation is for not medically necessary.

**NEUROMONITORING:** Upheld

**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 Official Disability Guidelines (ODG) Low Back chapter has the following on Intraoperative neurophysiologic monitoring (during surgery)

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

**5 TO 7- DAY INPATIENT STAY:** Upheld

**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 Official Disability Guidelines (ODG) Low Back chapter has the following on Hospital length of stay (LOS)

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

**LSO BRACE:** Upheld

**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 Official Disability Guidelines (ODG) under its Low Back Chapter, lumbar supports

**Decision rationale:** This patient presents with chronic low back pain with bladder incontinence episodes. The treater is requesting a LSO brace. ACOEM Guidelines page 301 on lumbar bracing state, "Lumbar supports have not been shown to have any lasting benefit beyond the acute phase of symptom relief." ODG Guidelines under its Low Back Chapter, lumbar supports states, "Prevention: Not recommended for prevention. There is strong and consistent evidence that lumbar supports were not effective in preventing neck and back pain." Under treatment

ODG further states, "Recommended as an option for compression fractures and specific treatment of spondylolisthesis, documented instability, and for treatment of nonspecific LBP (very low-quality evidence, but may be a conservative option)." In this case, the patient does not present with fracture, documented instability, or spondylolisthesis to warrant lumbar bracing. For non-specific low back pain, there is very low quality evidence. Recommendation is for not 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 base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) under its Low Back chapter states Bone Growth Stimulators (BGS)

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