

<b>Case Number:</b>	CM14-0080221		
<b>Date Assigned:</b>	08/08/2014	<b>Date of Injury:</b>	08/03/2012
<b>Decision Date:</b>	10/01/2014	<b>UR Denial Date:</b>	04/29/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	05/30/2014

### 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 45-year-old male who reported an injury on 08/03/2012. The mechanism of injury was repetitive motion. He is diagnosed with lumbar radiculopathy. His past treatments have included physical therapy, chiropractic treatment, work restrictions, medications, and epidural steroid injections. On 11/08/2013, the injured worker underwent electrodiagnostic studies of the lower extremities, which revealed findings consistent with mild chronic bilateral L4 and L5 nerve root impingement. On 11/12/2013, the injured worker had an MRI of the lumbar spine, which revealed a 3 mm posterior broad-based disc protrusion at L4-5, as well as a 6 mm transverse width linear tear of the left paracentral annulus fibrosis, left lateral recess nerve root sleeve effacement, and abutment of the budding left L5 nerve root. It was also noted that the MRI revealed evidence of moderate left and mild to moderate right neural foraminal stenosis at L4-5. On 04/15/2014, the injured worker presented with complaints of low back pain with radiation down the left leg into the calf. He rated his pain 8/10 to 9/10. His physical examination revealed decreased sensation in the L4, L5, and S1 distributions, as well as a positive straight leg raise in the left lower extremity. It was also noted that previous x-rays had revealed evidence of lateral listhesis of L4 on L5 with rotation. However, x-ray reports were not provided to verify these findings. His medications were noted to include Neurontin. The treatment plan included a posterior spinal fusion with instrumentation at the L4-5 level. The surgery was noted to have been recommended due to the injured worker's persistent left sciatica and symptomatic left lateral listhesis and annular tear. The Request for Authorization form was not submitted in the medical records.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Inpatient Hospital Length of Stay ( LOS ), 5 days: Upheld**

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

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

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

**Laminectomy, Posterior Spinal Fusion with Instrumentation Post Lateral Inter-body Fusion at L4-5: Upheld**

**Claims Administrator guideline:** Decision based on MTUS ACOEM.

**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, Fusion (spinal).

**Decision rationale:** According to the California MTUS/ACOEM Guidelines, spinal surgery may only be considered when serious spinal pathology and/or nerve root dysfunction has been unresponsive to at least 3 months of conservative therapy and is obviously due to a herniated disc. Documentation should show: severe and disabling radiating symptoms in a distribution consistent with abnormalities on imaging studies, as well as accompanying objective signs of neural compromise; activity limitations due to radiating extremity pain that have been present for more than 1 month, or an extreme progression of radiating symptoms; clear clinical, imaging, and electrophysiologic evidence of a lesion that has been shown to benefit from surgical repair; and the failure of at least 3 months of conservative treatment to resolve disabling radicular symptoms. Additionally, the guidelines state that spinal fusion may be considered when there is clear evidence of instability. More specifically, the Official Disability Guidelines state that lumbar spinal fusion should not be considered within the first 6 months of symptoms except when there is evidence of fracture, Final Determination Letter for IMR [REDACTED] dislocation, or progressive neurologic loss. The guidelines state that indications for spinal fusion may include: a neural arch defect with spondylolytic spondylolisthesis or congenital neural arch hypoplasia; objectively demonstratable segmental instability; primary mechanical back pain with failure of functional spinal unit and instability; when revision surgery is performed for failed previous operations if significant functional gains are anticipated; when there is infection, tumor, or deformity of the lumbosacral spine that causes intractable pain, neurological deficit, and functional disability; or after the failure of 2 discectomies on the same disc. Additionally, the guidelines state that prior to spinal fusion, all pain generators need to be identified and treated; all physical medicine and manual therapy intervention has been tried and failed; x-rays have demonstrated spinal instability, and MRI or other diagnostic testing has demonstrated disc pathology which has been correlated with symptoms and physical examination findings; the spinal pathology is limited to 2 levels; psychosocial screening has been

performed and confounding issues have been addressed; and recommendations have been made for patients who smoke to refrain from smoking for at least 6 weeks prior to surgery and during the period of fusion healing. The injured worker was noted to have an extended period of radiating symptoms from his low back into his left lower extremity to the calf. He was noted to report severe pain, rated 8/10 to 9/10, at his 04/15/2014 visit. Additionally, it was noted that he had failed initially recommended conservative treatment, including medications, physical therapy, and epidural injections. Further, he was shown to have evidence on electrodiagnostic testing of radiculopathy at L4-5, as well as MRI evidence of left L5 nerve root involvement at the L4-5 level, which correlates with neurological deficits on physical examination. Based on this information, the injured worker meets the criteria listed by the guidelines for laminectomy. However, the necessity of the spinal fusion at this level has not been demonstrated. It was noted that his provider had obtained x-rays, which he indicated had revealed evidence of lateral listhesis of L4 on L5 with rotation. However, the x-ray report was not provided to verify these findings, and there was no other documentation showing indications for lumbar fusion surgery. In addition, the documentation did not show that the injured worker has fulfilled the preoperative surgical indications prior to fusion surgery listed by the guidelines, as he was not shown to have had a psychosocial screening with confounding issues addressed, and there was no documentation indicating whether he had been counseled on the need to refrain from smoking prior to his fusion surgery and during the period of healing. Therefore, despite documentation showing that a spinal decompression surgery would be appropriate, in the absence of the x-ray report with confirmation of spinal instability at the L4-5 level and documentation showing that the preoperative surgical criteria have been fulfilled (including evidence of a psychosocial screening and counseling regarding smoking), the request in its entirety is not supported. As such, the requested surgical procedure is not medically necessary.

**Assistant Surgeon:** Upheld

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

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

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

**Medical Clearance:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM.

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

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

**3 in 1 COMMODE:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM.

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

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

**Front Wheel Walker:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM.

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

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

**Custom Molded TLSO Brace:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM.

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

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

