

<b>Case Number:</b>	CM15-0138212		
<b>Date Assigned:</b>	07/28/2015	<b>Date of Injury:</b>	09/21/2000
<b>Decision Date:</b>	08/26/2015	<b>UR Denial Date:</b>	06/30/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	07/16/2015

### 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. 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/Service. He/she is familiar with governing laws and regulations, including the strength of evidence hierarchy that applies to Independent Medical Review determinations.

The Expert Reviewer has the following credentials:

State(s) of Licensure: Illinois, California, Texas

Certification(s)/Specialty: Orthopedic Surgery

### 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 injured worker is a 49-year-old female who sustained an industrial injury on 9/21/00. Injury occurred when she was a passenger in a police car that was involved in a high speed motor vehicle accident. The vehicle that hit a brick wall. She was unbelted and jostled around resulting in significant soft tissue injuries. She underwent L4/5 and L5/S1 discectomy, L4/5 artificial disc replacement, and anterior fusion at L5/S1 with bone morphogenetic protein on 2/6/09. On 5/20/14, she underwent posterior L4 to S1 fusion with instrumentation. Conservative treatment had included epidural steroid injections, physical therapy, and medications with minimal, if any, relief. The 5/13/15 lumbar spine CT scan impression documented interval placement of bilateral pedicle screws at L4, L5, and S1 connected with posterior spinal road. At L2/3, there was a new 1 mm posterior disc bulge. At L3/4, there was a new 2 mm retrolisthesis and 1 mm posterior disc bulge with new mild narrowing of the spinal canal and mild bilateral neuroforaminal narrowing. At L5/S1, the bilateral neural foramen are patent, improved compared to previous exams. The 6/18/15 treating provider report indicated that the injured worker was 13 months status post posterior L4-S1 fusion with instrumentation due to failed artificial disc. She initially did quite well until 4 months ago when she had on onset of increased back pain and leg weakness. Low back pain was reported grade 8/10 with discomfort in the legs. She was only able to ambulate with a cane. Physical exam documented tenderness over the midline spinal processes, most superior to the incision. She had difficulty with squatting and a slow gait. Imaging showed a new 1 mm posterior disc bulge at L2/3, and a new mild retrolisthesis at L3/4 which caused narrowing of the spinal canal and bilateral neuroforaminal narrowing. Authorization was requested for right

L3-4 direct lateral interbody fusion with bone morphogenetic proteins and revision of posterior spinal fusion, L3 to sacrum with instrumentation, with four day inpatient stay. The 6/30/15 utilization review modified the request for right L3-4 direct lateral interbody fusion with bone morphogenetic proteins and revision of posterior spinal fusion, L3 to sacrum with instrumentation to right L3-4 direct lateral interbody fusion, revision of posterior spinal fusion, L3 to sacrum with instrumentation. The use of bone morphogenetic protein was non-certified as it was not recommended by guidelines. The request for a 4-day inpatient length of stay was modified to 3 days consistent with guidelines.

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

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

**Right lumbar 3-4 direct lumbar interbody fusion with bone morphogenic protein, revision of posterior spine fusion, lumbar 3 sacrum with moss miami instrumentation:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 307. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Treatment in Workers Compensation (TWC), Low Back Procedure Summary Online Version updated 5/15/15.

**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 - Lumbar & Thoracic: Bone-morphogenetic protein (BMP).

**Decision rationale:** The California MTUS guidelines do not address the use of bone morphogenetic protein (BMP). The Official Disability Guidelines do not recommend the use of bone morphogenetic protein as there is a lack of clear evidence of improved outcomes with BMP, and there is inadequate evidence of safety and efficacy to support routine use. Recent research found that bone-morphogenetic protein (rhBMP-2), used to promote bone growth in spinal fusion surgery, offers little or no benefit over bone graft and may be associated with more harms, possibly including cancer, according to independent reviews of Medtronic-sponsored clinical trial data. This injured worker has been certified for a right L3-4 direct lateral interbody fusion, revision of posterior spinal fusion, L3 to sacrum with instrumentation to right L3-4 direct lateral interbody fusion, revision of posterior spinal fusion, L3 to sacrum with instrumentation. The use of bone morphogenetic protein was non-certified as not recommended by guidelines. There is no compelling rationale presented to support the medical necessity of the use of bone morphogenetic protein in the absence of guideline support as an exception to guidelines. Therefore, this request is not medically necessary.

**Associated surgical service: 4 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) Treatment in Workers Compensation (TWC), Low Back Procedure Summary.

**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 - Lumbar & Thoracic: Hospital length of stay (LOS).

**Decision rationale:** The California MTUS does not provide hospital length of stay recommendations. The Official Disability Guidelines recommend the median length of stay (LOS) based on type of surgery, or best practice target LOS for cases with no complications. The recommended median and best practice target for lateral or posterior lumbar fusion is 3 days. The 6/30/15 utilization review modified the request for 4 days length of stay, certifying 3 days. There is no compelling reason to support the medical necessity beyond guideline recommendations and the 3 day hospital stay previously certified. Therefore, this request is not medically necessary.