

<b>Case Number:</b>	CM15-0180369		
<b>Date Assigned:</b>	09/29/2015	<b>Date of Injury:</b>	07/06/2013
<b>Decision Date:</b>	11/06/2015	<b>UR Denial Date:</b>	08/24/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	09/14/2015

### 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 39-year-old male who sustained an industrial injury on 7/6/13. Injury occurred while he was working as an ocean lifeguard and performing a rescue. Past surgical history was positive for an L5/S1 microdiscectomy in 2002. Conservative treatment had included physical therapy, medications, and activity modification. The 12/27/14 lumbar spine MRI impression revealed a severe loss of disc space height and disc desiccation at L4/5 with mild anterior spondylosis, 4 mm AP anterior disc bulge, and Modic endplate marrow degenerative changes. There was a left paracentral 6 mm disc protrusion resulting in left sided spinal canal and neuroforaminal stenosis, and nerve root sleeve effacement and impingement of the budding left L5 nerve root in the left lateral recess. There was right lateral recess abutment of the budding left L5 nerve root present, moderate right neuroforaminal stenosis and a posterior annular tear. The 2/17/15 electrodiagnostic study findings were consistent with chronic bilateral L5 radiculopathy. The 2/18/15 treating physician report indicated the patient had multilevel disc degeneration at L3/4, L4/5, and L5/S1 with disc bulges at L2/3. The treatment plan recommended 2-level fusion at L4/5 and L5/S1. The 7/7/15 treating physician report indicated that the injured worker was waiting for surgical approval. He had not been able to work and was taking Norco and Soma daily. He had only minimal degrees of lumbar range of motion with pain in all motions. He had full strength and the exam was otherwise non-focal. Authorization was requested for posterior spinal fusion L4-S1, transforaminal lumbar interbody fusion, microdiscectomy L4-S1, and a 3-day inpatient stay. The 8/24/15 utilization review non-certified the request for posterior spinal fusion L4-S1, transforaminal lumbar interbody fusion,

microdiscectomy L4-S1, and a 3-day inpatient stay as there was no radiographic evidence to establish intersegmental instability on flexion/extension films, there were no neurologic deficits on recent exam, and a current MRI report had not been submitted. The 8/28/15 treating physician report cited grade 2-8/10 axial low back pain, occasionally radiating into the left thigh. He was frustrated with the overall process and noted a worsening of his mood. Pain limited activity and he was progressively deconditioned. He had completed physical therapy and was working with a chiropractor. Physical exam documented normal muscle strength, sensation, and deep tendon reflexes with no motor neuron signs. X-rays showed multilevel degenerative disc disease with severe facet arthropathy from L2 through S1 with loss of overall lumbar lordosis. There was no appreciable instability noted on flexion or extension. The treating physician felt that a 2-level fusion would address a significant amount of his pain. There was MRI findings of multilevel nerve root impingement, particularly at L4/5. There were no psychological issues or any depression so psychosocial screening was not necessary. He had stopped smoking for over 6 weeks. He had tried epidural injections, anti-inflammatory medication, pain medication, and muscle relaxants with only temporary relief. Authorization was requested for posterior spinal fusion at L4-S1, transforaminal lumbar interbody fusion with microdiscectomy at L4/5 on the left. The 9/18/15 utilization review modified the appeal request for posterior spinal fusion L4-S1, transforaminal lumbar interbody fusion, microdiscectomy L4-S1 to posterior spinal fusion at L4/5, transforaminal lumbar interbody fusion and microdiscectomy. The rationale indicated that imaging did not support changes at L5/S1 appropriate for fusion for axial low back pain. The main finding at L5/S1 was facet arthropathy, but there was no discussion of facet treatment to address that level. There was an 11-degree curve and the slight retrolisthesis at L5/S1 but no documentation as to what levels were included in the scoliosis. The request for a 3-day inpatient stay was certified.

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

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

**Inpatient Stay (3-days): 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:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**Posterior Spinal Fusion L4-S1, Transforaminal Inter-Body Fusion, Microdiscectomy L4-S1: 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 Low Back Complaints 2004, Section(s): Surgical Considerations. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back - Lumbar & Thoracic, Discectomy/Laminectomy, Fusion (spinal).

**Decision rationale:** The California MTUS recommend surgical consideration when there is severe and disabling lower leg symptoms in a distribution consistent with abnormalities on imaging studies (radiculopathy), preferably with accompanying objective signs of neural compromise. Guidelines require clear clinical, imaging and electrophysiologic evidence of a lesion that has been shown to benefit both in the short-term and long-term from surgical repair. The guidelines recommend that clinicians consider referral for psychological screening to improve surgical outcomes. The Official Disability Guidelines recommend criteria for lumbar discectomy that include symptoms/findings that confirm the presence of radiculopathy and correlate with clinical exam and imaging findings. Guideline criteria include evidence of nerve root compression, imaging findings of nerve root compression, lateral disc rupture, or lateral recess stenosis, and completion of comprehensive conservative treatment. The Official Disability Guidelines do not recommend lumbar fusion for patients with degenerative disc disease, disc herniation, spinal stenosis without degenerative spondylolisthesis or instability, or non-specific low back pain. Fusion may be supported for segmental instability (objectively demonstrable) including excessive motion, as in isthmic or degenerative spondylolisthesis, surgically induced segmental instability and mechanical intervertebral collapse of the motion segment and advanced degenerative changes after surgical discectomy. Pre-operative clinical surgical indications require completion of all physical therapy and manual therapy interventions, x-rays demonstrating spinal instability and/or imaging demonstrating nerve root impingement correlated with symptoms and exam findings, spine fusion to be performed at 1 or 2 levels, psychosocial screening with confounding issues addressed, and smoking cessation for at least 6 weeks prior to surgery and during the period of fusion healing. Guideline criteria have not been met. This injured worker presents with primarily axial low back pain, with intermittent radiating pain into the left thigh. Clinical exam findings did not evidence any focal neurologic deficit. There was imaging and electrodiagnostic evidence to support the presence of nerve root compression at the L4/5 level. Evidence of a recent, reasonable and/or comprehensive non-operative treatment protocol trial and failure has been submitted. There is no radiographic evidence of significant spondylolisthesis or spinal segmental instability on flexion and extension x-rays at either the L4/5 or L5/S1 level. There is no discussion or imaging evidence supporting the need for wide decompression that would result in temporary intraoperative instability and necessitate fusion. There is no evidence of a psychosocial screen. Records indicate that a subsequent utilization review on appeal modified this request and certified a posterior spinal fusion at L4/5, transforaminal lumbar interbody fusion and microdiscectomy with a 3-day inpatient length of stay. There is no compelling rationale to support the medical necessity of additional surgical intervention in the form of fusion at the L5/S1 level at this time. Therefore, this request is not medically necessary.