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| <b>Case Number:</b>   | CM15-0207393 |                              |            |
| <b>Date Assigned:</b> | 10/26/2015   | <b>Date of Injury:</b>       | 09/08/2008 |
| <b>Decision Date:</b> | 12/08/2015   | <b>UR Denial Date:</b>       | 10/01/2015 |
| <b>Priority:</b>      | Standard     | <b>Application Received:</b> | 10/21/2015 |

### 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 44-year-old male who sustained an industrial injury on 9/8/08, relative to a slip and fall. The 3/4/11 electrodiagnostic study impression documented mild left lumbosacral radiculopathy at the L5 level. The 6/9/14 lumbar spine MRI impression documented degenerative disease, most notable at L4/5 with small disc protrusion abutting the right greater than left L5 nerve roots in the lateral recess. Findings documented an annular tear, ligamentum flavum hypertrophy and facet arthrosis at L4/5 without canal stenosis or significant neuroforaminal narrowing. At L5/S1, there was a small central disc protrusion with annular tear and mild facet arthrosis without canal stenosis but with mild bilateral neuroforaminal narrowing. Findings documented normal alignment of the lumbar spine. The 7/27/15 psychological evaluation indicated that the injured worker had a significant and persistent chronic pain disorder associated with severe injury. He was diagnosed with major depressive affective disorder, recurrent episode, severe. Individual psychotherapy was recommended for 6 sessions and medication management for 3 sessions. The 8/31/15 pain management report cited constant grade 8 low back pain radiating to both feet with weakness. Functional difficulty was documented in housework and yard work. Physical exam documented normal gait and station, positive bilateral straight leg raise, decreased lumbar range of motion, and lumbar midline tenderness at L4-S1. There was diminished strength and tone due to pain at L5, and tenderness at the bilateral facet joints from L3 through S1. Heel walking was abnormal. There was 5/5 lower extremity strength and absent bilateral lower extremity deep tendon reflexes. A bilateral L4/5 transforaminal epidural steroid injection was recommended. The 9/16/15 spine surgery report cited worsening grade 8/10 low back pain radiating into the bilateral lower extremities with associated symptoms of numbness, tingling, weakness, swelling, catching and locking. Increased symptoms were limiting function.

Physical exam documented paraspinal tenderness at L5/S1, painful but normal range of motion, 4/5 left quadriceps weakness, and 4/5 right tibialis anterior, extensor hallucis longus, and plantar flexion weakness. The right ankle reflex was diminished. There was decreased right L5 and S1 dermatomal sensation. Straight leg raise was positive. The injured worker continued to have progression of his low back and bilateral lower extremity radiculopathy, right greater than left. Conservative treatment had included pain medications, injections, ablation, and physical therapy without improvement. Symptoms were getting worse. His images were consistent with facet arthropathy that was likely the cause of his spondylolisthesis at L4/5. Decompression would render him more unstable because the facet joints were arthritic and would be partially resected. The treating physician indicated that symptoms were due to pathology at L4/5 and not the disc herniation at L5/S1. Authorization was requested for mini 360 lumbar fusion at L4/5 and associated surgical services including assistant surgeon and 2-night inpatient stay. The 10/1/15 utilization review non-certified the request for mini 36 lumbar fusion at L4/5 and associated surgical services as there was no radiologist report clearly indicating a spondylolisthesis, all previous exam failed to indicate neuropathic pain, weakness or diminished reflexes, prior electrodiagnostic testing was normal, and there was no evidence of psychosocial screening.

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

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

#### **Mini 360 fusion of lumbar spine, L4-L5: 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), Low Back-Lumbar & Thoracic (Acute & Chronic) lumbar fusion.

**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, 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. Spinal instability criteria includes lumbar inter-segmental translational movement of more than 4.5 mm. 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 worsening low back pain radiating into both feet with weakness. Functional difficulty was documented in activities of daily living. Clinical exam findings were consistent with imaging and electrodiagnostic evidence of L5 nerve root compromise. There is no radiographic evidence of spondylolisthesis or spinal segmental instability on flexion and extension x-rays. There is discussion supporting the need for wide decompression that would result in temporary intraoperative instability and necessitate fusion. Detailed evidence of a recent, reasonable and/or comprehensive non-operative treatment protocol trial and failure has been submitted. However, potential psychological issues are documented with no evidence of a psychosocial screen. Therefore, this request is not medically necessary at this time.

**Associated surgical services: Assistant surgeon: 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), Low Back, Lumbar & Thoracic (Acute & Chronic).

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Centers for Medicare and Medicaid services, Physician Fee Schedule: Assistant Surgeons, <http://www.cms.gov/apps/physician-fee-schedule/overview.aspx>.

**Decision rationale:** As the surgical request is not supported, this request is not medically necessary.

**Associated surgical services: 2 nights inpatient: 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), Low back-Lumbar & thoracic (Acute & Chronic).

**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:** As the surgical request is not supported, this request is not medically necessary.