

<b>Case Number:</b>	CM15-0052299		
<b>Date Assigned:</b>	03/25/2015	<b>Date of Injury:</b>	06/19/1989
<b>Decision Date:</b>	05/05/2015	<b>UR Denial Date:</b>	02/28/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	03/19/2015

### 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: Minnesota, Florida  
 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:

The injured worker is a 61 year old female, who sustained an industrial injury on 6/19/89. She has reported neck and back injury working as a police officer. The diagnoses have included cervical spine muscle strain/sprain with radicular complaints and status post lumbar spine surgery times 3 with fusions. Treatment to date has included medications, surgery, acupuncture, Epidural Steroid Injection (ESI) and physical therapy. Surgery has included lumbar laminectomy in 1992 and again in 1994. Currently, as per the physician progress note dated 10/30/14, the injured worker complains of low back pain with radiation of pain to bilateral legs, spasms in the buttocks bilaterally at night, permanent numbness bottom right foot and constant severe neck pain with radiation to the arms bilaterally. She rated the pain 8-9/10 on pain scale. It was noted that she received a steroid injection for the cervical spine on 10/8/14 without any benefit. The physical exam revealed cervical spine tenderness, positive cervical distraction test, muscle spasms and restricted range of motion due to pain. The lumbosacral spine exam revealed increased tenderness with muscle spasms noted. The MRI of the cervical spine dated 3/7/14 revealed cervical spondylosis, and severe right and moderate left foraminal narrowing at C5-C6. In addition severe spinal stenosis was noted at C6-7 with moderate bilateral neuroforaminal narrowing. EMG revealed evidence of right C6 and C7 radiculopathy. The physician noted that the injured worker has tried and failed 12 sessions of physical therapy, 2 Epidural Steroid Injection (ESI), 6 acupuncture sessions and medications for the cervical spine with no relief. The physician requested treatments included 1 artificial disc replacement (ADR) at the level of

C5-6 and associated surgical service: 1 assistant surgeon. No surgery was requested for the C6-7 level.

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

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

#### **1 artificial disc replacement (ADR) at the level of C5-6: 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), Neck and upper back (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), Neck & Upper Back, Disc prosthesis.

**Decision rationale:** ODG guidelines indicate that disc prosthesis is under study with recent promising results in the cervical spine but not recommended in the lumbar spine. The expectation of a decrease in an adjacent segment disease development in long-term studies remains in question. The recommended indications include symptomatic single level cervical degenerative disc disease in patients who have failed at least 6 weeks of nonoperative treatment and present with arm pain and functional/neurological deficit. At least one of the following conditions should be confirmed by imaging: 1. Herniated nucleus pulposus; 2. Spondylosis with osteophytes; and 3. Loss of disc height. The injured worker does not meet the guideline requirement of single level cervical degenerative disc disease. There is an additional level with severe central stenosis at C6-7 and there is EMG evidence of right C6 and C7 radiculopathy. The surgical request does not address the pathology at C6-7. As such, the guideline criteria for artificial disc replacement have not been met and the medical necessity of the request has not been established.

#### **Associated surgical service: 1 assistant surgeon: Upheld**

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

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation American College of Surgeons 2013 Assistant at Surgery Consensus.

**Decision rationale:** The American College of Surgeons Statement of Principles states that the first assistant during a surgical operation should be a trained individual who is able to participate in and actively assist the surgeon in completing the operation safely and expeditiously by helping to provide exposure, maintain hemostasis, and serve other technical functions. The qualifications of the person in this role may vary with the nature of the operation, the surgical specialty, and the type of hospital or ambulatory surgical facility. The 2013 Assistant at Surgery

Consensus indicates that an assistant surgeon is almost always necessary for artificial disc replacement. However, since the primary surgical procedure is not medically necessary, the associated request for a surgical assistant is also not medically necessary.