

<b>Case Number:</b>	CM14-0004292		
<b>Date Assigned:</b>	02/05/2014	<b>Date of Injury:</b>	08/18/2011
<b>Decision Date:</b>	06/20/2014	<b>UR Denial Date:</b>	01/03/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	01/13/2014

### 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 Orthopaedic Surgery, and is licensed to practice in California. 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:

This 47-year-old male police officer sustained an industrial injury on 8/18/11; the mechanism of injury is not documented. He is status post L5/S1 microdiscectomy and partial medial facetectomy and foraminotomy on 4/24/12 and anterior lumbar interbody fusion at L5/S1 on 2/5/13. The 9/4/13 treating physician report indicated the patient was improving with some right-sided low back discomfort and was off his pain medications. Physical exam findings documented intact lower extremity neurologic exam with x-ray findings of good hardware position and no evidence of lucency or displacement. The patient was returned to work light duty. The 11/13/13 lumbar spine CT scan documented moderate right and mild left neuroforaminal narrowing at L5/S1 secondary to post-operative changes. The 12/4/14 treating physician chart note documented CT scan evidence of right sided L5/S1 laminotomy with ectopic bone formation in the lateral recesses which is displacing the transversing nerve root. The facet joint are not fused which may be a normal finding; the implant itself is solidly fused. He opined the medically necessary of an L5/S1 revision decompression because of the lateral recess stenosis caused by ectopic bone formation. The stenosis at this level correlates with his symptoms and complaints. He opined that he many need to remove enough of the facet complex to remove the ectopic bone and do a good decompression. He also stated that while anterior fusions do succeed in fusing the anterior column, there is sometimes micro-motion at the facet complex posteriorly that is a continued source of pain, and may do a posterior supplemental fixation with screws and rods. The 1/3/14 utilization review denied the request for right L5-S1 decompression, removal of ectopic bone, and L5/S1 posterior spinal fusion due to the lack of clinical evidence that the ectopic bone formation in the lateral recesses and unfused facet joint are the primary pain generators. The 1/27/14 appeal letter stated that bone morphogenetic protein was used in the prior fusion procedure and the CT scan shows obvious ectopic bone formation growing from the

interspace of the disc toward the lateral recess and foramen. The patient presented with progressive right lower extremity weakness, currently 3+/5 in ankle dorsiflexion and extensor hallucis longus. He reported his foot was giving out regularly during the day while standing. Conservative treatment had been provided including physical therapy and injections, and had not worked. He again requested a simple decompression and possibly a fusion only if there is motion, and expressed concern regarding permanent foot drop.

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

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

#### **ONE L5-S1 RIGHT DECOMPRESSION, REMOVAL OF ECTOPIC BONE, L5-S1 POSTERIOR SPINAL FUSION AT [REDACTED] BETWEEN 1/2/2014 AND 5/2/2014: Overturned**

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 306-307. Decision based on Non-MTUS Citation Official Disability Guidelines Guidelines, 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, Discectomy/laminectomy, spinal fusion.

**Decision rationale:** Under consideration is a request for L5-S1 right decompression, removal of ectopic bone, L5/S1 posterior spinal fusion at [REDACTED] between 1/2/2014 and 5/2/2014. The Official Disability Guidelines support the use of decompression surgery when symptoms and findings confirm the presence of radiculopathy, imaging corroborates exam findings, and conservative treatment has been tried and has failed. Spinal fusion is supported for surgically induced segmental instability and revision procedures are supported for failed previous operation(s) if significant functional gains are anticipated. Guideline criteria have been met. There is evidence of progressive significant lower extremity weakness consistent with reported imaging findings, following an initial post-operative period of improvement. Reasonable conservative treatment has been tried and failed. Bone morphogenetic protein was reportedly used during the initial procedures with current findings of ectopic bone formation in the lateral recesses at L5/S1 which is displacing the transversing nerve root. The provider has requested decompression procedures to remove the ectopic bone formation and has opined the possible need for screw/rod fixation to address surgically induced instability. Given the progressive neurologic loss, this request for L5-S1 right decompression, removal of ectopic bone, and L5/S1 posterior spinal fusion is medically necessary.

#### **ONE ASSISTANT SURGEON BETWEEN 1/2/2014 AND 5/2/2014: Overturned**

**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, CPT Code 22630).

**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.

**Decision rationale:** Under consideration is a request for one assistant surgeon between 1/2/2014 and 5/2/2014. California MTUS guidelines do not address the appropriateness of surgical assistants. The Center for Medicare and Medicaid Services (CMS) provide direction relative to the typical medical necessity of assistant surgeons. The Centers for Medicare & Medicaid Services (CMS) has revised the list of surgical procedures which are eligible for assistant-at-surgery. The procedure codes with a 0 under the assistant surgeon heading imply that an assistant is not necessary; however, procedure codes with a 1 or 2 implies that an assistant is usually necessary. For this requested surgery, CPT code 63030, there is a "2" in the assistant surgeon column. Therefore, based on the stated guideline and the complexity of the procedure, this request for one assistant surgeon is medically necessary.

**ONE PRE-OP MEDICAL CLEARANCE BETWEEN 1/2/2014 AND 5/2/2014:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Surgery General Information and Ground Rules, California Official Medical Fee Schedule, 1999 edition, pages 92-93.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Institute For Clinical Systems Improvement (ICSI) Preoperative Evaluation.

**Decision rationale:** Under consideration is a request for one pre-op medical clearance between 1/2/2014 and 5/2/2014. The California MTUS guidelines do not provide recommendations for this service. Evidence based medical guidelines indicate that a basic pre-operative assessment is required for all patients undergoing diagnostic or therapeutic procedures. Guideline criteria have been met as the patient is a 47-year-old male undergoing anesthesia and surgery. Middle aged males have plausible occult cardiovascular risk factors. Therefore, this request for one pre-operative medical clearance is medically necessary.

**ONE POST-OP BRACE ( [REDACTED] ) BETWEEN 1/2/2014 AND 5/2/2014:** Overturned

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 298.

**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, Back Brace, Post-Operative (Fusion).

**Decision rationale:** Under consideration is a request for one post-op brace [REDACTED] [REDACTED] between 1/2/2014 and 5/2/2014. The ACOEM guidelines do not recommend lumbar supports for the treatment of lower back pain, but indicate they may be useful for post-operative

treatment. Guideline criteria have been met given the planned surgical procedure. Therefore, this request for one post-op brace is medically necessary.

**EIGHTEEN POST-OP SESSIONS OF PHYSICAL THERAPY FOR THE LUMBAR SPINE [REDACTED] BETWEEN 1/2/2014 AND 7/21/2014: Overturned**

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS Postsurgical Treatment Guidelines Page(s): 26.

**Decision rationale:** Under consideration is a request for eighteen post-op sessions of physical therapy for the lumbar spine [REDACTED] between 1/2/2014 and 7/21/2014: The California Post-Surgical Treatment Guidelines for lumbar fusion suggest a general course of 34 post-operative physical medicine visits over 26 weeks, during the 6-month post-surgical treatment period. An initial course of therapy would be supported for one-half the general course. If it is determined that additional functional improvement can be accomplished after completion of the general course of therapy, physical medicine treatment may be continued up to the end of the postsurgical period. Guideline criteria have been met. Therefore, this request for eighteen post-op physical therapy sessions for the lumbar spine is medically necessary.