

<b>Case Number:</b>	CM14-0115057		
<b>Date Assigned:</b>	08/08/2014	<b>Date of Injury:</b>	08/17/2010
<b>Decision Date:</b>	10/08/2014	<b>UR Denial Date:</b>	07/15/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	07/22/2014

### 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 Occupational Medicine 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:

The applicant is a represented [REDACTED] employee who has filed a claim for chronic low back pain reportedly associated with an industrial injury of August 17, 2010. Thus far, the applicant has been treated with the following: Analgesic medications; attorney representations; transfer of care to and from various providers in various specialties; opioid therapy; and the apparent imposition of permanent work restrictions. In a Utilization Review Report dated July 15, 2014, the claims administrator denied a request for an L5-S1 lumbar fusion surgery with associated hospitalization, co-surgeon, intraoperative monitoring, a bedside commode, and a walker. A variety of MTUS and non-MTUS guidelines were invoked. The claims administrator stated that the applicant did not have evidence of a significant lesion on MRI imaging at the L5-S1 level. The applicant's attorney subsequently appealed. In a March 7, 2014 progress note, the applicant reported persistent complaints of low back pain, reportedly aggravated by the applicant's commuting an hour and a half on a one-way basis for job project. The applicant stated that he had stopped going to work earlier that week owing to heightened pain complaints. Tramadol was endorsed. The attending provider reiterated the applicant's permanent work restrictions imposed by a medical-legal evaluator. The applicant was obese, with a BMI of 30, it was suggested. In a March 5, 2014 spine surgery consultation, it was stated that the applicant was not working having last worked some two days prior. The applicant reportedly attributed his symptoms to the industrial fall injury several years prior. The applicant stated that physical therapy, acupuncture, traction, and epidural injections had provided only temporary and partial relief. Persistent complaints of low back pain were noted, 7-9/10 with associated severe right leg pain, also rated at 9/10. The applicant was obese, with a BMI of 31.5, it was acknowledged. Limited range of motion with normal lower extremity motor function and reflexes were appreciated. The attending provider endorsed an L5-S1 lumbar fusion surgery. On

June 11, 2014, a second opinion orthopedic spine surgeon stated that the applicant had persistent axial and radicular complaints. The applicant also had a history of compression fractures at the T11 and L1, it was stated. Lower extremity motor function and sensorium were intact. The applicant apparently exhibited significant disk desiccation, retrolisthesis, and moderate-to-severe bilateral stenosis at the L5-S1 level, it was stated. The second opinion spine surgeon stated that conservative treatment had failed and that reconstructive surgery at L5-S1 would be beneficial here. Lumbar MRI imaging of July 1, 2014 was read as demonstrating moderate bilateral neuroforaminal narrowing at L5-S1, apparently the result of disk bulging, degenerative spurring and retrolisthesis.

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

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

#### **Posterior circumferential reconstruction with decompression, instrumentation & fusion L5-S1: Overturned**

**Claims Administrator guideline:** Decision based on MTUS ACOEM Page(s): 305-307.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 307.

**Decision rationale:** As noted in the MTUS-adopted ACOEM Guidelines in Chapter 12, page 307, applicants with increased spinal instability after surgical decompression at the level of degenerative spondylolisthesis "may be candidates for fusion." While ACOEM qualifies this position by noting that there is no scientific evidence about the long-term effectiveness of any form of surgical decompression or fusion for degenerative spondylolisthesis when compared with natural history and conservative treatment, in this case, however, natural history, conservative treatment, time, medications, epidural steroid injection therapy, physical therapy, etc., have proven unsuccessful. The applicant has severe radicular low back complaints, consistently rated at 9/10. Two separate spine surgeons have stated that they believe the applicant has failed conservative treatment. The applicant is, moreover, reporting increasing difficulty tolerating work activities. Both of the two spine surgeons whose progress notes are referenced above have stated that they interpret the applicant's L5-S1 neuroforaminal narrowing as moderate to severe. The applicant also apparently has disk degeneration/loss of disk height at the same level. This disk degeneration/loss of disk height suggests that the applicant has some degree of instability at the L5-S1 level in question and may not be a candidate for a less invasive discectomy procedure/decompression procedure alone. In any case, the failure of conservative treatment and persistent severe radicular leg complaints coupled with evidence of neuroforaminal narrowing/neuroforaminal stenosis at L5-S1 do make a compelling case for the proposed surgery. Accordingly, the request is medically necessary.

#### **Inpatient 5 hospital days: Overturned**

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

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation ODG Low Back Chapter, Hospital Length of Stay Guidelines.

**Decision rationale:** The MTUS does not address the topic of hospital length of stay following a spine surgery. While ODG's Low Back Chapter Hospital Length of Stay topic notes that the best practice target following a posterior lumbar fusion procedure, as was approved above, is "three days," ODG notes that actual data suggested that mean hospitalization is 3.9 days. Thus, the five-day hospitalization, while slightly in excess of ODG best-practice parameters, is relatively close to what ODG's actual data reflects. Therefore, the request is medically necessary.

**CO Surgeon:** Overturned

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints. Decision based on Non-MTUS Citation Official Disability Guideline (ODG) Treatment Workers Compensation (TWC)

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation American College of Surgeons (ACS), Physicians as Assistants at Surgery: 2013 Study.

**Decision rationale:** The MTUS does not address the topic. As noted by the American College of Surgeons (ACS) the CPT code 22630-posterior interbody arthrodesis/fusion "almost always" requires a co-surgeon or assistant surgeon. Since the lumbar fusion surgery above has been deemed medically necessary, the derivative or companion request for a co-surgeon is likewise medically necessary.

**Intra Operative neurophysiological monitoring:** Overturned

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

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Intraoperative Neurophysiological Monitoring During Spine Surgery: A Review.

**Decision rationale:** The MTUS does not address the topic. As noted in the review article entitled Intraoperative Neurophysiological Monitoring During Spine Surgery, neurophysiologic monitoring is "extremely valuable" in the prevention of neurologic injury during spine surgery procedures. In this case, a spine surgery procedure has been approved above, in question #1. Concomitant provision of neurophysiologic monitoring is therefore indicated. Accordingly, the request is medically necessary.

**Beside Commode:** Overturned

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

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation ODG Knee and Leg Chapter, Durable Medical Equipment topic.

**Decision rationale:** The MTUS does not address the topic. As noted in ODG's Knee Chapter Durable Medical Equipment topic, certain DME toilet items such as the commode at issue are medically necessary if an applicant will be bed or room confined and/or said commode is being prescribed as part of a medical treatment plan for an injury which results in physical limitations. In this case, some degree of temporary debility/immobility may be expected or anticipated following the planned spine surgery procedure approved above, in question #1. Therefore, the derivative or companion request for a bedside commode is likewise medically necessary.

**Adult pick up walker:** Overturned

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

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Power Mobility Devices topic. Page(s): 99.

**Decision rationale:** As noted on page 99 of the MTUS Chronic Pain Medical Treatment Guidelines, power mobility devices are not recommended if an applicant's functional mobility deficits can be sufficiently resolved through usage of a manual wheelchair, cane, and/or walker. In this case, the applicant may have some temporary mobility issues following the spine surgery which has been approved, above. Provision of a walker for postoperative ambulation assistance purposes is likely indicated. Therefore, the request is medically necessary.