

|                       |              |                              |            |
|-----------------------|--------------|------------------------------|------------|
| <b>Case Number:</b>   | CM13-0012934 |                              |            |
| <b>Date Assigned:</b> | 12/27/2013   | <b>Date of Injury:</b>       | 12/05/2005 |
| <b>Decision Date:</b> | 07/21/2015   | <b>UR Denial Date:</b>       | 08/09/2013 |
| <b>Priority:</b>      | Standard     | <b>Application Received:</b> | 08/19/2013 |

### 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:

The injured worker is a 42-year-old male who sustained an industrial injury on 12/05/05. The mechanism of injury was not documented. Conservative treatment included medications, diagnostics, epidural steroid injection, and physical therapy. The 10/22/10 lumbar discogram was reported as positive at L4/5 and L5/S1 levels. The 2/7/12 lumbar spine MRI revealed a 2 mm symmetric disc bulge at L4/5 with bilateral facet arthropathy, and a 3 mm symmetric disc bulge toward the left at L5/S1 with bilateral facet arthropathy. There was disc desiccation noted at L1/2, L4/5 and L5/S1, with annular tears at L4/5 and L5/S1. The 4/19/13 agreed medical examiner report discussed the history of treatment for this injured worker and failure of conservative care. He had chronic intractable low back pain with radiating pain to the left leg and numbness in both legs. It was reported that surgical intervention had been recommended at two levels by two different spine surgeons. One recommended an L4/5 and L5/S1 fusion. The other spine surgeon noted the injured worker's age and felt that a lumbar fusion would leave him with significant lower spine stiffness and not allow him to return to his usual occupation. He recommended as an alternative, artificial disc replacement at L4/5 and L5/S1 versus a possible hybrid type procedure. The AME recommended that the injured worker be allowed to proceed with surgery including artificial disc replacement if he accepted the risks. The 6/12/13 spine surgery report indicated that the injured worker had been diagnosed with 2-level lumbar disc herniation and annular tears. A hybrid procedure which included an artificial disc replacement with ProDisc-L at the L4/5 level and anterior fusion at the L5/S1 segment had been approved. The injured worker had received a thorough explanation of the approved hybrid procedure but wanted instead to have a 2-level artificial disc replacement procedure. Authorization was requested for 2-level artificial disc

replacement at L4/5 and L5/S1. The 7/19/13 spine surgery report cited increased low back pain with decreased sitting and standing tolerance. The injured worker needed to frequently change positions and was unable to work. Physical exam documented decreased right S1 dermatomal sensation and limited lumbar flexion and extension. The treating physician stated that the injured worker had a positive discogram and was appropriate for a 2-level artificial disc replacement. He stated that the FDA had approved single level artificial disc replacement, and recent studies showed comparable efficacy and superior results with artificial disc replacement over time. On 8/2/13, authorization was requested for artificial disc replacement L4-S1 second surgical opinion. The 8/30/13 utilization review non-certified the request for a second surgical opinion for the lumbar spine as the treating physician was requesting a second opinion regarding his request for a two-level lumbar artificial disc replacement at L4/5 and L5/S1. This request had been denied in utilization review on 5/1/13 and 6/25/13. The medical necessity of a second opinion regarding a surgery that was not supported by evidence based medical guidelines was not established.

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

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

**Second surgical opinion for the lumbar spine:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM Page(s): 112. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG).

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 305. Decision based on Non-MTUS Citation American College of Occupational and Environmental Medicine (ACOEM), 2nd Edition, (2004) Independent Medical Examinations and Consultations, page(s) 127.

**Decision rationale:** The California MTUS guidelines state that referral for surgical consultation is indicated for patients who have met specific criteria. Referral is indicated for patients who have severe and disabling lower leg symptoms in a distribution consistent with abnormalities on imaging studies (radiculopathy), preferably with accompanying objective signs of neural compromise. There should be activity limitations due to radiating leg pain for more than 4 to 6 weeks. Guidelines require clear clinical, imaging, and electrophysiologic evidence of a lesion that has shown to benefit in the short and long term from surgical repair. Failure of time and an adequate trial of conservative treatment to resolve disabling radicular symptoms must be documented. The ACOEM guidelines support referral to a specialist if a diagnosis is uncertain or extremely complex, when psychosocial factors are present, or when the plan or course of care may benefit from additional expertise. This injured worker presents with low back pain radiating to the left lower extremity and bilateral lower extremity numbness. Clinical exam findings and imaging have been reported as consistent with L4/5 and L5/S1 disc pathology. He has been afforded two spine surgery consults, and has been seen by the agreed medical examiner. All the consultants have recommended surgical intervention at the L4/5 and L5/S1 levels. The AME supported the artificial disc replacement recommendation. A hybrid procedure was reportedly approved but a request was subsequently submitted for 2-level artificial disc replacement. At issue is the denial of a 2-level artificial disc replacement as not supported by evidence based medical guidelines. A second opinion regarding the 2-level artificial disc replacement has been requested. There is no compelling reason to support the medical necessity of an additional surgical opinion. Therefore, this request is not medically necessary.