

<b>Case Number:</b>	CM15-0003758		
<b>Date Assigned:</b>	01/14/2015	<b>Date of Injury:</b>	11/23/1999
<b>Decision Date:</b>	03/20/2015	<b>UR Denial Date:</b>	12/22/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	01/08/2015

### 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: Georgia, South Carolina  
 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 51-year-old male who reported an injury on 11/23/1999. The mechanism of injury was not provided. The prior therapies were not provided. The injured worker was noted to undergo a removal of L3-4 hardware and exploration and fusion at L3-4 on 02/06/2014. The injured worker underwent an x-ray of the lumbar spine, 4 views, on 06/20/2014 which revealed a stable anterior fusion at L3 through L5, interval removal of posterior fusion hardware at L3-4, and mild degenerative retrolisthesis of L2 on L3 was unchanged with no evidence of instability. The injured worker underwent an MRI of the lumbar spine on 11/20/2014 which revealed at the level of L2-3, there was disc space narrowing present. There was a 2 to 3 mm broad disc protrusion extending into both neural foraminal exit zones. There was moderate left neural foraminal exit zone compromise without spinal stenosis. The examination of 12/04/2014 revealed the injured worker had back stiffness, numbness in the right leg and left leg, and paravertebral muscle spasms, as well as radicular pain in the left leg, weakness in the bilateral legs, sharp pain, and hip pain. The medications were noted to include aspirin 325 mg, clonazepam 1 mg, Flexeril 5 mg, gabapentin 300 mg, Lisinopril 20 mg, metoprolol 50 mg, and Norco 10/325 mg. The physical examination revealed a positive faber move bilaterally. There was pain to palpation over the L3-4, L4-5, and L5-S1 facet capsules and spinous processes bilaterally. There was pain with rotational extension along with SI joint pathology. The injured worker had decreased sensation at L4, L5, and S1 dermatomes on the left. The documentation indicated the injured worker was status post hardware injection with marked resolution of spinal pain, with almost 90% resolution of pain on 05/23/2013 for approximately 36 hours, and the

physician this was highly likely that the injured worker was a candidate for hardware removal if he was found to have a stable fusion with the CT scan. Surgical history included multiple lumbar spine surgeries and a 4 vessel bypass CABG 1 vessel that was left untreated. The documentation of 12/05/2014 revealed the injured worker continued to have severe low back pain described as being above the area of the previous surgical scars. The injured worker's pain was worse with motion, and at times, the injured worker was noted to be able to feel a slipping sensation in the lumbar spine. The injured worker continued to have lateral thigh numbness and pain, as well as some sciatica type complaints. The injured worker continued to desire to move forward with surgical management. The injured worker as noted to smoke 1 pack per day. The physical examination revealed the injured worker had moderate to severe tenderness with flexion and extension to the upper lumbar spine. The injured worker continued to have dysesthesia into the left leg. The left leg strength was 4/5, and right leg strength was 5/5. The bilateral lower extremity deep tendon reflexes were diminished in the patella and Achilles. The physician opined the diagnostic studies included the injured worker had retrolisthesis as well as collapse of L2-3. There was a broad based disc bulge causing mild stenosis. The injured worker was noted to have recent flexion/extension x-rays showing a 6 mm retrolisthesis at L2-3 along with collapse and anterior kissing of the vertebral bodies. The diagnoses included lumbar disc displacement and postlaminectomy lumbar syndrome. The treatment plan was for an L2-3 fusion. There was a Request for Authorization submitted for review.

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

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

**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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**DME Rental - Vascutherm Cold Therapy Unit - 14 day: 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**Facility - Inpatient, 2 Day: 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

### **L2-3 XLIF Posterior Fusion With Instrumentation: Upheld**

**Claims Administrator guideline:** Decision based on MTUS ACOEM. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Low Back, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 305-307. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back Chapter, XLIF (eXtreme Lateral Interbody Fusion), Fusion, Pre-operative Surgical Indications Recommended

**Decision rationale:** The American College of Occupational and Environmental Medicine indicate a surgical consultation may be appropriate for injured workers who have severe and disabling lower leg symptoms in a distribution consistent with abnormalities on imaging studies preferably with accompanying objective signs of neural compromise. There should be documentation of activity limitations due to radiating leg pain for more than 1 month or the extreme progression of lower leg symptoms, and clear clinical, imaging and electrophysiologic evidence of a lesion that has been shown to benefit in both the short and long term from surgical repair and documentation of a failure of conservative treatment to resolve disabling radicular symptoms. Additionally, there is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problem, in the absence of spinal fracture, dislocation, or spondylolisthesis if there is instability and motion in the segment operated on. There was a lack of documentation of a failure of conservative care and the specific conservative care that was provided and the duration of such care was not provided. They do not specifically address the XLIF or smoking. As such, secondary guidelines were sought. The Official Disability Guidelines indicate that an XLIF, extreme lateral interbody fusion, is not recommended. The guidelines further indicate that for any potential fusion surgery, it is recommended that the injured worker refrain from smoking for at least six weeks prior to surgery and during the period of fusion healing. The clinical documentation submitted for review indicated the injured worker had a stable, mild degenerative retrolisthesis of L2 on L3 that was unchanged. The physical examination revealed weakness and stabilization with reduction. Additionally, the injured worker was noted to be a smoker, which is known to interfere with fusion healing. There was a lack of documentation indicating the injured worker was willing to stop smoking for six weeks prior to surgery and for the period of fusion healing. There was a lack of documentation of exceptional factors to warrant nonadherence to guideline

recommendations. Given the above, the request for L2-3 XLIF posterior fusion with instrumentation is not medically necessary.

**Lumbar Brace:** 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**Orthofix Bone Stim:** 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**Post-Op Physical Therapy 2x6:** 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**Pre-Op EKG:** 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**Pre-Op Labs; CBC with Diff, CMP, PT, PTT:** 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**Pre-Op Medical Clearance:** 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.

**UA:** 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, Fusion (spinal); XLIF (Extreme Lateral Interbody Fusion)

**MAXIMUS guideline:** The Expert Reviewer did not cite any medical evidence for its decision.

**Decision rationale:** Since the primary procedure is not medically necessary, none of the associated services are medically necessary.