

<b>Case Number:</b>	CM15-0114847		
<b>Date Assigned:</b>	06/23/2015	<b>Date of Injury:</b>	06/28/2013
<b>Decision Date:</b>	07/22/2015	<b>UR Denial Date:</b>	06/05/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	06/15/2015

### 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: 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:

This injured worker is a 37 year old man sustained an industrial injury on 6/28/13, relative to a driving a tractor. The 7/31/14 lumbar spine MRI impression documented a posterior disc protrusion at L5/S1 with slight anterolisthesis of L5 on S1. Findings documented a 3.3 mm central posterior disc protrusion with effacement of the anterior thecal sac with slight narrowing of the recesses and mild facet arthropathy. The 7/31/14 lumbar x-rays showed a possible transitional lumbosacral vertebral body level with joint space narrowing and no other bony abnormalities. There was no evident abnormal motion from flexion to extension. The 4/23/15 orthopedic medical legal report indicated that the injured worker had been treated with acupuncture and lumbar spine injections x 3 with only temporary relief. Chiropractic treatment did not provide sustained relief, but was helpful while he was doing it. He was taking Tramadol, ibuprofen and Tizanidine on a daily basis but these were not very helpful. Subjective complaints included low back pain radiating down the right leg to the foot with numbness and tingling. He was able to stand, sit or walk for 45 minutes to an hour but was not able to return to work. He was wearing a lumbosacral support. Physical exam documented normal gait and posture, tenderness to palpation at the L5/S1 level, limited lumbar range of motion, and negative straight leg raise. Sensory exam was decreased over the right dorsal lateral and medial foot, lateral and medial calf, and lateral thigh. He was able to toe and heel walk with some difficulty and there was 4/5 peroneal weakness. Deep tendon reflexes were +3 at the patella and +2 and the Achilles bilaterally. The treatment plan recommended a course of physical therapy for core strengthening. If physical therapy did not improve his symptoms sufficiently to return to work, a lumbar

discectomy may be pursued. The 2/25/15 EMG study evidenced acute right L5 to S1 radiculopathy. The 5/18/15 neurosurgical report cited low back pain radiating to the buttocks, thigh and calf on the right side with occasional giving out of the right foot. Physical exam documented moderate mid-lumbar discomfort to palpation, and positive straight leg raise on the right at 45 degrees. Sensation was diminished over the right lateral shin and anterior foot. There was 4/5 right dorsiflexion and plantar flexion weakness. MRI revealed disc herniation and foraminal narrowing on the right at L4/5. The diagnosis was lumbar disc herniation with radiculopathy. Authorization was requested for discectomy at right L4/5, length of stay for one day, and assistant surgeon. The 6/5/15 utilization review non-certified the request for right L4/5 discectomy and associated requests as there was no objective evidence of neural compromise confirmed by imaging.

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

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

#### **Discectomy at right L4-L5: Overturned**

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 305.

**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 Lumbar & Thoracic: Discectomy/Laminectomy.

**Decision rationale:** The California MTUS recommend surgical consideration when there is severe and disabling lower leg symptoms in a distribution consistent with abnormalities on imaging studies (radiculopathy), preferably with accompanying objective signs of neural compromise. Guidelines require clear clinical, imaging and electrophysiologic evidence of a lesion that has been shown to benefit both in the short term and long term from surgical repair. The guidelines recommend that clinicians consider referral for psychological screening to improve surgical outcomes. The Official Disability Guidelines recommend criteria for lumbar discectomy that include symptoms/findings that confirm the presence of radiculopathy and correlate with clinical exam and imaging findings. Guideline criteria include evidence of nerve root compression, imaging findings of nerve root compression, lateral disc rupture, or lateral recess stenosis, and completion of comprehensive conservative treatment. Guideline criteria have been met. This injured worker presents with low back pain radiating to the right lower extremity. Signs/symptoms and clinical exam findings are consistent with imaging and electrodiagnostic evidence of L5 and S1 radiculopathy. Reasonable non-operative treatments of medication, chiropractic and altered activities have been tried and failed. Therefore, this request is medically necessary.

#### **Length of stay for 1 day: Overturned**

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 305.

**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: Hospital length of stay (LOS).

**Decision rationale:** The California MTUS does not provide recommendations for hospital length of stay. The Official Disability Guidelines recommend the median length of stay (LOS) based on type of surgery, or best practice target LOS for cases with no complications. The recommended median length of stay is 1 day, and best practice target is outpatient. Guideline criteria have been met for inpatient length of stay up to 1 day. Therefore, this request is medically necessary.

**Assistant surgeon:** Overturned

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 305.

**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: Assistant Surgeons, <http://www.cms.gov/apps/physician-fee-schedule/overview.aspx>.

**Decision rationale:** The California MTUS guidelines do not address the appropriateness of assistant surgeons. 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 62287, there is a "1" in the assistant surgeon column. Therefore, based on the stated guideline and the complexity of the procedure, this request is medically necessary.