

<b>Case Number:</b>	CM15-0149602		
<b>Date Assigned:</b>	08/12/2015	<b>Date of Injury:</b>	01/10/2014
<b>Decision Date:</b>	10/07/2015	<b>UR Denial Date:</b>	06/30/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	07/31/2015

### 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: California  
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 27 year old male, who sustained an industrial injury on 1-10-14. He has reported initial complaints of a fall backwards at work injuring the buttocks and back. The diagnoses have included recurrent disc herniation with lumbar radiculopathy and status post right sided L5-S1 discectomy. Treatment to date has included medications, activity modifications, off of work, right side discectomy surgery, physical therapy and other modalities. Currently, as per the physician progress note dated 6-17-15, the injured worker complains of severe low back and lower extremity pain with paresthesias. He has pain and numbness in the lower extremities. The diagnostic testing that was performed included Magnetic Resonance Imaging (MRI) of the lumbar spine dated 6-13 -15 that reveals recurrent disc protrusion with lateral recess and foraminal stenosis and right lateral recess effacement. There is a mass effect upon the S1 nerve with severe narrowing and bilateral stenosis. The physical exam reveals that the incision is well healed, there is pain on palpation of the lower lumbar spine, he has decreased sensation in the lower extremities and bilateral feet and there is a positive straight leg raise bilaterally at 30 degrees. The physician noted that due to ongoing low back pain , lower extremity pain and numbness and positive Magnetic Resonance Imaging (MRI) findings he recommends bilateral Transforaminal Lumbar Interbody Fusion L5-S1 (sacroiliac), Associated Surgical Services: Assistant [REDACTED], PA-C, Associated Surgical Services: Length of Stay (LOS), 3 days, and Associated Surgical Services: Aspen LSO (lumbosacral) Lumbar Brace.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Transforaminal Lumbar Interbody Fusion L5-S1 (sacroiliac): Overturned**

**Claims Administrator guideline:** Decision based on MTUS Low Back Complaints 2004.

**MAXIMUS guideline:** Decision based on MTUS Low Back Complaints 2004, Section(s): Surgical Considerations. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low back, Fusion.

**Decision rationale:** The ACOEM Guidelines Chapter 12 Low Back Complaints page 307 state that lumbar fusion, "Except for cases of trauma-related spinal fracture or dislocation, fusion of the spine is not usually considered during the first three months of symptoms. Patients with increased spinal instability (not work-related) after surgical decompression at the level of degenerative spondylolisthesis may be candidates for fusion." According to the ODG, Low back, Fusion (spinal) should be considered for 6 months of symptom. Indications for fusion include neural arch defect, segmental instability with movement of more than 4.5 mm, revision surgery where functional gains are anticipated, infection, tumor, deformity and after a third disc herniation. In addition, ODG states, there is a lack of support for fusion for mechanical low back pain for subjects with failure to participate effectively in active rehab pre-op, total disability over 6 months, active psych diagnosis, and narcotic dependence. In this particular patient there is evidence of medical necessity for lumbar fusion as there is evidence of severe stenosis and failed nonsurgical management from the exam note of 6/17/15 to warrant fusion. Therefore the determination is certification for lumbar fusion.

**Associated Surgical Services: Length of Stay (LOS), 3 days: Overturned**

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines: Low Back - Hospital Length of Stay (LOS).

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

**Decision rationale:** CA MTUS/ACOEM is silent on the issue of hospital length of stay following a lumbar fusion. According to the ODG, Low back section, Hospital length of stay, a 3 day inpatient stay is recommended following an anterior lumbar fusion. As a request is for 3 days the determination is for certification as medically necessary and appropriate.

**Associated Surgical Services: Assistant PA-C: Overturned**

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines: Low Back - Surgical Assistant.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation <http://www.aaos.org/about/papers/position/1120.asp>.

**Decision rationale:** CA MTUS/ACOEM/ODG is silent on the issue of assistant surgeon. According to the American College of Surgeons: "The first assistant to the surgeon during a surgical operation should be a trained individual capable of participating and actively assisting the surgeon to establish a good working team. The first assistant provides aid in exposure, hemostasis, and other technical function which will help the surgeon carry out a safe operation and optimal results for the patient. The role will vary considerably with the surgical operation, specialty area, and type of hospital." There is an indication for an assistant surgeon for the requested lumbar fusion. The guidelines state that "the more complex or risky the operation, the more highly trained the first assistant should be." In this case the decision for an assistant surgeon is medically necessary and is therefore certified.

**Associated Surgical Services: Aspen LSO (lumbosacral) 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: Low Back - Lumbar supports; Back brace, post operative (fusion).

**MAXIMUS guideline:** Decision based on MTUS Low Back Complaints 2004, Section(s): Medical.

**Decision rationale:** CA MTUS/ACOEM guidelines, Chapter 12, page 301 states, "lumbar supports have not been shown to have any lasting benefit beyond the acute phase of symptom relief." Therefore the request does not meet recommended guidelines and determination is not medically necessary.