

Case Number:	CM15-0166149		
Date Assigned:	09/22/2015	Date of Injury:	03/13/2012
Decision Date:	11/23/2015	UR Denial Date:	08/12/2015
Priority:	Standard	Application Received:	08/24/2015

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, Indiana, Oregon
 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 (IW) is a 34 year old male who sustained an industrial injury on 03/13/2012. The injured worker was diagnosed as having: Retrolisthesis (L5-S1), Lumbar radiculopathy (bilateral L5 and Right S1), Situation post lumbar discectomy- right L5-S1) (2007), Lumbar disc Narrowing (L5-S1), Lumbar disc disease (L4-L5 and L5-S1, Lumbosacral radiculitis (Bilateral), Chronic pain due to injury, Opiate addiction (possible), Somatization disorder (possible-due to abnormal pain diagram). According to provider notes of 07-19-2015, treatment to date has included right L5-S1 transforaminal epidural injection (TFESI) on 06-08-2012 without improvement, bilateral S1 TFESI on 09-20-2012, repeat bilateral S1 TFESI on 02-26-2013 with 85% , bilateral S1 TFESI on 08-05-2014 with 75% improvement and medial branch blocks bilaterally at L3, L4, and L5 on 11-26-2014 with improvement. MRI of the lumbar spine dated 01-28-2015 showed stable postsurgical changes, and a broad-based annular bulge and right paramedian protrusion not significantly changed in appearance from the prior examination. There was central 3mm L4-5 annular protrusion not significantly changed from the prior exam. The electrodiagnostic study results of electromyography and nerve conduction velocity tests on 04-15-2015 reported electrodiagnostic evidence for chronic right L5 and S1 lumbar radiculopathy without active denervation. There was electrodiagnostic evidence for chronic left L5 lumbar radiculopathy without active denervation. There was no electrodiagnostic evidence for lumbosacral plexopathy, peripheral neuropathy, or any mononeuropathies affecting the distal lower extremities. Current medications include Percocet, Zanaflex, Lyrica, and Colace. Urine

toxicology testing showed compliance with medications. In the provider notes of 07-31-2015 the injured worker is seen in consultation. He complains of bilateral leg pain, worse on the right that is sharp, tingling in nature with severity ranging between 1-9 on a scale of 0-10 on the right and 1-5 on a scale of 0-10 on the left. Pain is in the right buttock and posterior thigh to the popliteal crease. He complains of an extremely hot sensation and burning in the anterior shin and lateral 3 toes with burning in the plantar surface of the forefoot. He also complains of right calf numbness. In the left leg, the pain begins in the buttock and he notes tingling in the anterior left shin. The symptoms are worse with certain sleeping positions, bending and lifting, driving more than 10 minutes and activities that use his abdominal muscles. He also complains of increased pain with certain swimming strokes. Overall, he reports having 70% leg pain versus 30% back pain. On exam, he has tenderness to palpation over the midline lower lumbar spinous process tips. His gait is normal, and manual muscle strength was full and equal in both lower extremities. There was decreased sensation in the right L3 dermatome. The treatment plan is for an artificial disc replacement with interbody fusion. A request for authorization was submitted for 08-03-2015: 1. Surgery L4-L5 artificial lateral standing. 2. Associated surgical services: 2-3 day inpatient facility stay. 3. L5-S1 anterior interbody fusion with instrumentation. 4. Associated surgical services: Vascular surgeon. 5. Pre-Op History and Physical. A utilization review decision 08-12-2015 non-certified the request in its entirety.

IMR ISSUES, DECISIONS AND RATIONALES

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

Surgery L4-L5 artificial lateral standing: Upheld

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 Official Disability Guidelines (ODG) low back.

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 symptoms. 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 case, the request is for an unrecognizable surgery associated with a lumbar fusion. As the procedure is unrecognizable and the fusion is not necessary, the request is not medically necessary.

Associated surgical services: 2-3 day inpatient facility stay: Upheld

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

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.

Decision rationale: As the requested surgical procedure is not medically necessary, none of the associated services are medically necessary and appropriate.

L5-S1 anterior interbody fusion w/instrumentation: Upheld

Claims Administrator guideline: Decision based on MTUS Low Back Complaints 2004. Decision based on Non-MTUS Citation Official Disability Guidelines, Low Back, Fusion (spinal).

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.

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 symptoms. 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 lack of medical necessity for lumbar fusion as there is no evidence of segmental instability greater than 4.5 mm, severe stenosis or psychiatric clearance from the exam notes to warrant fusion. Therefore the request is not medically necessary.

Associated surgical services: Vascular 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, Low Back, Surgical Assistant.

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.

Decision rationale: As the requested surgical procedure is not medically necessary, none of the associated services are medically necessary and appropriate.

Pre-op H&P (history and physical): Upheld

Claims Administrator guideline: The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation <http://www.guideline.gov/content.aaspx?id=48408>.

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.

Decision rationale: As the requested surgical procedure is not medically necessary, none of the associated services are medically necessary and appropriate.