

<b>Case Number:</b>	CM15-0179638		
<b>Date Assigned:</b>	09/21/2015	<b>Date of Injury:</b>	08/27/2013
<b>Decision Date:</b>	11/23/2015	<b>UR Denial Date:</b>	08/18/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	09/11/2015

### 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 is a 44 year old male, who sustained an industrial-work injury on 8-27-13. A review of the medical records indicates that the injured worker is undergoing treatment for lumbar disc displacement and post-operative lumbar discectomy with residual back and leg pain. Medical records dated 7-27-15 indicate that the injured worker is status post left sided L4-5 and L5-S1 epidural steroid injection (ESI) with 60 percent improvement in symptoms lasting 10 days with return of the symptoms bilaterally with increased pain. The medical records dated (4-6-15 to 7-27-15) the injured worker complains of pain in the bilateral low back with radiation to the bilateral lower extremities, buttocks, thighs and calves. The medical records also indicate worsening of the activities of daily living due to pain. Per the treating physician report dated 7-30-15 the injured worker has returned to work with modified duties. The physical exam dated 7-27-15 reveals that there is moderate discomfort on palpation in the midlumbar spine. There is a positive straight leg raise on the left at 45 degrees. There is diminished light touch to the left lateral shin and anterior foot. The gait is slow. Treatment to date has included pain medication, L4-5 microdiscectomy and decompression 7-11-14, lumbar epidural steroid injection (ESI) 5-29-15, physical therapy at least 16 sessions and other modalities. Magnetic resonance imaging (MRI) of the lumbar spine dated 3-13-15 L5-S1 left central and lateral recess broad base protrusion which slightly displaces the left S1 nerve root within the left lateral recess. This is new since the previous exam At L4-5 there is a central protrusion which mildly flattens the ventral thecal sac without nerve root impingement. There has been a left hemilaminectomy and partial discectomy which is new since the previous exam without canal or lateral recess stenosis.

The request for authorization date was 8-5-15 and requested services included Transforaminal lumbar interbody fusion L4-L5-S1, Assistant surgeon, LOS inpatient times 3 days, Post-op DME purchase: Aspen lumbar brace, and Post-op DME purchase: External bone growth stimulator. The original Utilization review dated 8-18-15 non-certified the request for Transforaminal lumbar interbody fusion L4-L5-S1 as the guideline criteria for fusion has not been met and it is unclear if the injured worker underwent any psychosocial screen and dynamic imaging studies were not obtained to assess for motion segment failure. The request for Assistant surgeon, LOS inpatient times 3 days, Post-op DME purchase: Aspen lumbar brace, and Post-op DME purchase: External bone growth stimulator was non-certified as the request for the Transforaminal lumbar interbody fusion L4-L5-S1 was non-certified therefore, all associated services are likewise recommended non-certified.

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

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

#### **Transforaminal lumbar interbody fusion L4-L5-S1: Upheld**

**Claims Administrator guideline:** Decision based on MTUS Low Back Complaints 2004. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low back section, 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: Assistant surgeon: 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:** As the requested surgical procedure is not medically necessary, none of the associated services are medically necessary and appropriate.

**Associated surgical services: Length of stay (LOS) inpatient times 3 days:** 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:** As the requested surgical procedure is not medically necessary, none of the associated services are medically necessary and appropriate.

**Post-op DME purchase: Aspen lumbar brace:** 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:** As the requested surgical procedure is not medically necessary, none of the associated services are medically necessary and appropriate.

**Post-op DME purchase: External bone growth stimulator:** 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:** As the requested surgical procedure is not medically necessary, none of the associated services are medically necessary and appropriate.