

<b>Case Number:</b>	CM15-0062019		
<b>Date Assigned:</b>	04/07/2015	<b>Date of Injury:</b>	10/08/2014
<b>Decision Date:</b>	05/13/2015	<b>UR Denial Date:</b>	03/24/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	04/01/2015

### 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 55 was a male, who sustained an industrial injury, October 8, 2014. The injury was sustained when the injured worker slipped and fell off the stairs. The injured worker received the following treatments in the past laboratory toxicology studies, orthopaedic spine consultation, Norco, Naproxen, Gabapentin, Colace, Tramadol, lumbar spine X-rays, lumbar spine MRI, right knee MRI, home exercise program, right knee brace, physical therapy with TENS (transcutaneous electrical nerve stimulator) unit and lumbar epidural steroid injection on February 2, 2015. The injured worker was diagnosed with HPN (herniated nucleus pulposus) of the lumbar spine, lumbar radiculopathy. According to progress note of December 15, 2015, the injured workers chief complaint was low back pain with bilateral leg pain with numbness and tingling in the feet. The pain was aggravated with walking up stairs. The physical exam the injured worker was having 70% of the pain in the lumbar spine, bending forward, bending backwards, and prolonged sitting, standing, coughing and sneezing. The pain was reduced by medications, rest, standing or leaning. The pain was described as stabbing aching sensation in both legs to the feet. The physical exam noted the injured worker walked with a cane. The injured worker was having difficulty-performing heel to toe walking, due to the severity of the pain. The treatment plan included surgery ALIF L4-S1 with open reduction PSF L4-S1 with open; DME: Bone graft stimulator with fitting and an assistant surgeon.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**ALIF at L4-S1 w/open reduction, PSF L4-SI w/open:** Overturned

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints. Decision based on Non-MTUS Citation Official Disability Guidelines.

**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, lumbar fusion can be indicated for Primary Mechanical Back Pain (i.e., pain aggravated by physical activity)/Functional Spinal Unit Failure/Instability, including one or two level segmental failure with progressive degenerative changes, loss of height, disc-loading capability. In this case, the note from 3/5/15 demonstrates continued pain with radiculopathic symptoms and physical exam findings. The records demonstrate compliance with recommended non-operative treatment. Therefore, the request is medically necessary.

**Associated surgical services: DME: Bone Growth Stimulator w/fitting:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines, Bone Growth Stimulators.

**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:** CA MTUS/ACOEM is silent on the issue of bone growth stimulator for the lumbar spine. According to the ODG, Low Back, bone growth stimulator would be considered for patients as an adjunct to spine fusion if they are at high risk including multiple level surgeries. In this case, the fusion proposed is at two levels. Therefore, request is medically necessary.

**Associated surgical services: Assistant Surgeon:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines 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:** CA MTUS/ACOEM is silent on the issue of assistant surgeon. According to the ODG, Low Back Chapter, Surgical assistant is recommended as an option in more complex surgeries including CPT code 63030, a lumbar microdiscectomy. As the surgical request is more complex than microdiscectomy, the recommended for assistant surgeon is medically necessary.