

<b>Case Number:</b>	CM15-0069694		
<b>Date Assigned:</b>	04/17/2015	<b>Date of Injury:</b>	06/20/2011
<b>Decision Date:</b>	06/25/2015	<b>UR Denial Date:</b>	03/25/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	04/13/2015

### 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:

The injured worker is a 52-year-old male who sustained an industrial injury on 6/20/11. Past medical history was positive for chronic obstructive pulmonary disease and hypertension. The injured worker underwent L5/S1 microdiscectomy on 10/4/11, and re-do L5/S1 microdiscectomy with transforaminal lumbar interbody fusion and posterior spinal fusion with cage on 0/15/14. The 9/25/14 lumbar CT scan impression documented interbody fusion at L5/S1, S1 laminectomy, posterior spinal instrumentation at fusion change at L5/S1. There was a partial facetectomy at L5/S1 with no bony left neuroforaminal stenosis. There was mild right neuroforaminal stenosis. There was degenerative change with a mild disc bulge and bilateral facet arthropathy at L4/5 causing mild central canal stenosis and mild bilateral neuroforaminal stenosis. The 3/17/15 treating physician report cited on-going low back pain with numbness radiating into the bilateral buttocks, down the right posterior thigh through the calf and into the plantar aspect of the foot. Pain was grade 2-3/10 with medications, and grade 4-6/10 without medications. Physical exam documented significant antalgic gait due to bilateral foot pain and he used a single point cane. There was decreased left L3 and L4, and right L5 and S1 dermatomal sensation. Lumbar range of motion was limited. There was bilateral weakness in hip flexion and knee extension. Straight leg raise was positive. The CT scan was reviewed and showed a medial breach of the L5 pedicle screw on the right which may be irritating the nerve and causing some of his right leg symptoms. He received approximately 50% improvement temporarily with a hardware block on 12/10/14. Authorization was requested for hardware removal at L5/S1. The 3/25/15 utilization review non-certified the removal of hardware at L5/S1 and evaluation of

fusion mass, and associated surgical requests, as there was no imaging report documenting abnormality of the pedicle screws or pseudoarthrosis. The 3/26/15 CT scan addendum documented at the interbody fusion site at L4/5 there was interbody bony ankylosis medial to the interbody space. The right half of the L4/5 interbody space appeared not ankylosed. The right L4 pedicle screw was slightly deviated medially breaching the medial cortex, raising the possibility of a contact point with the traversing right L5 nerve. Evaluation was limited without intrathecal contrast, and the thecal sac was not well visualized. There are vacuum phenomena in the sacroiliac joints.

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

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

#### **Removal of hardware at L5-S1 and evaluation of fusion mass: Overturned**

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Low Back Chapter.

**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: Hardware injection (block); Hardware implant removal (fixation).

**Decision rationale:** The California MTUS does not provide recommendations relative to lumbar hardware removal. The Official Disability Guidelines do not recommend the routine removal of hardware implanted for fixation, except in the case of broken hardware or persistent pain, after ruling out other causes of pain such as infection and nonunion. The Official Disability Guidelines recommend the use of a hardware injection (block) for diagnostic evaluation in patients who have undergone a fusion with hardware to determine if continued pain was caused by the hardware. If the steroid/anesthetic medication can eliminate the pain by reducing the swelling and inflammation near the hardware, the surgeon may decide to remove the patient's hardware. Guideline criteria have been met. This injured worker presents with persistent low back pain radiating down both legs to the plantar feet. Clinical findings are consistent with radiculopathy. There is imaging evidence of deviation of the right L4 pedicle screw possibly contacting the traversing right L5 nerve root. A diagnostic hardware block was reported as positive. Therefore, this request is medically necessary.

#### **Medical pre-op clearance: Overturned**

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation ODG, Low Back Chapter.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Institute for Clinical Systems Improvement (ICSI), Preoperative evaluation, Bloomington (MN): Institute for Clinical Systems Improvement (ICSI); 2010 Jun. 40 p.

**Decision rationale:** The California MTUS guidelines do not provide recommendations for pre-operative medical clearance. Evidence based medical guidelines indicate that a basic pre-operative assessment is required for all patients undergoing diagnostic or therapeutic procedures. Middle-aged males have known occult increased cardiovascular risk factors. Co-morbidities include hypertension and chronic obstructive pulmonary disease. Guideline criteria have been met based on patient's age, co-morbidities, and the risks of undergoing anesthesia. Therefore, this request is medically necessary.

**Associated surgical service: Assistant surgeon:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation ODG, Low Back Chapter.

**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 22850, there is a "2" in the assistant surgeon column. Therefore, based on the stated guideline and the complexity of the procedure, this request is medically necessary.

**Associated surgical service: One day inpatient stay:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation ODG, Hospital length of stay (LOS) guidelines: Lumbar Spine.

**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 hospital length of stay recommendations. 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. Guidelines do not specifically address length of stay for lumbar hardware removal. The recommended median length of stay for laminectomy is 2 days and best practice target is 1 day. The recommended median and best practice target for anterior or posterior lumbar fusion is 3 days. This request for a one day length of stay seems reasonable for the requested procedure and generally consistent with guidelines. Therefore, this request is medically necessary.

