
Notice of Independent Medical Review Determination

Dated: 8/20/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 7/9/2013
Date of Injury: 12/30/2010
IMR Application Received: 7/10/2013
MAXIMUS Case Number: CM13-0001093

- 1) MAXIMUS Federal Services, Inc. has determined the request for lumbar spine fusion L4-L5 interspace and posterior instruments fusion of L4-L5 **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/10/2013 disputing the Utilization Review Denial dated 7/9/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/10/2013. A decision has been made for each of the treatment and/or services that were in dispute:

- 1) MAXIMUS Federal Services, Inc. has determined the request for lumbar spine fusion L4-L5 interspace and posterior instruments fusion of L4-L5 **is not medically necessary and appropriate.**

Medical Qualifications of the Expert Reviewer:

The independent Medical Doctor who made the decision has no affiliation with the employer, employee, providers or the claims administrator. The physician reviewer is Board Certified in Orthopedic Surgery, and is licensed to practice in California. 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 treatments and/or services at issue.

Case Summary:

Disclaimer: The following case summary was taken directly from the utilization review denial/modification dated July 9, 2013:

"██████████ is a 47 year old (06/16/66) female Order Puller (date of hire: 05/22/09) for ██████████, with an injury while walking down stairs and fell, landing on her left knee on 01/03/11. The lumbar spine, head, neck, shoulders, and bilateral knees claims have been accepted by the carrier. The carrier objected the claims for head, neck, shoulder, psyche, insomnia. The current work status is: Remain off work.

"A lumbar MRI of 10/24/12 described transitional anatomy at the lumbosacral junction. At L2-3, disc desiccation is noted. Desiccation and a 2 mm broad-based posterior disc bulge is present at L3-4 without neural foraminal or central canal stenosis. L4-5 showed moderate to severe degenerative disc disease with narrowing, desiccation, and a vacuum disc phenomenon. There is a 3 mm broad-based disc protrusion and 5 mm left foraminal disc protrusion, 4 mm right foraminal disc protrusion and facet arthropathy.

"Moderate/severe left and moderate right neural foraminal stenosis is described.

"The second opinion spine surgery evaluation by ██████████, MD notes that the patient had had acupuncture, chiropractic, injections and she was attending aqua therapy. She uses a right knee brace. She had right knee surgery on 6/7/12. She uses a lumbar corset when performing house chores,. Multiple issues are rated on a 5-point scale, with difficulty at a 2-3/5 level. Naprosyn provides some benefit. She has not participated in walking and exercising since her industrial injury. The patient's gait stiff and mildly antalgic on the right. She could heel and toe walk normally. Lumbar flexion

was 75 degrees and extension was 25 degrees, both with pain. Lateral bending was 25 degrees. Straight leg raising was negative bilaterally. There appear to be no positive findings re: the right knee. Patellar and Achilles reflexes are 0 bilaterally. Lower extremity motor function is 5/5 and sensation is intact. A sacralized L5 vertebra is noted with degenerative disc disease and narrowing at L4-5. Diagnoses are chronic lumbar spine pain syndrome with degenerative disc disease and neural foraminal stenosis at the L4-5 interspace. The patient complained of lumbar slight/moderate pain without radiation with a sensation of weakness in both legs. She had had an extensive course of treatment without improvement including 2 lumbar epidural steroid injections that provided transient benefit lasting about one week. It is Dr. [REDACTED] opinion that the patient undergo interbody fusion at L4-5 with posterior instrumented fusion.

"The report of [REDACTED], MD on 11/29/12 describes constant pain at 3/10. His opinion is that the patient is a candidate for surgery at L5-S1. The handwritten report is partially illegible. On 12/20/12, Dr. [REDACTED] notes lumbar spine pain at 3-4/10, increased with prolonged sitting with stiffness and "poking". Pain increases with standing and cold weather. Decreased, painful range of lumbar spine range of motion is noted. He was to continue with aquatic therapy. Pending authorization for lumbar spine fusion. Second opinion agrees.

"On 5/31/13, [REDACTED], DC requests a lumbar fusion at L4-5, psychologist, orthopedic and neurosurgical follow-up. The report states to hold treatment. Home exercises. Per Dr. [REDACTED] and Dr. [REDACTED] (the latter is quoted refusal, as noted above). The patient is described as having constant, mild aching low back pain and stiffness, and intermittent mild left knee pain as well as popping of the right knee. Lumbar paravertebral, bilateral sacroiliac joint, and thoracic tenderness and muscle spasm is noted. Kemp's causes pain."

Documents Reviewed for Determination:

The following relevant documents received from the interested parties and the documents provided with the application were reviewed and considered. These documents included:

- Application for Independent Medical Review (received 7/10/13)
- Utilization Review Determination from [REDACTED] (dated 7/9/13)
- Medical Records from [REDACTED], DC (dated 12/14/12- 3/11/13)
- Medical Report from [REDACTED], MD (dated 3/9/12)
- Medical Record from [REDACTED], MD (dated 10/27/12)
- Medical Records from [REDACTED], MD (dated 11/19/12- 2/15/13)
- American College of Occupational and Environmental Medicine (ACOEM), 2nd Edition, (2004), Chapter 12, Low Back Complaints, pg. 307

1) Regarding the request for lumbar spine fusion L4-L5 interspace and posterior instrumented fusion of L4-L5:

Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), Spinal Fusion section, pg. 307, of the Medical Treatment Utilization Schedule (MTUS) and the

Official Disability Guidelines (ODG), (current version), Low Back, Fusion (Spinal) Section, a Medical Treatment Guideline (MTG) not part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), Spinal Fusion section, pg. 307, of the MTUS , was applicable and relevant to the issue at dispute.

Rationale for the Decision:

On 1/3/11 the employee sustained a work-related fall injury. Diagnoses on 6/7/12 indicate chronic lumbar spine pain syndrome with degenerative disc disease and neural foraminal stenosis at the L4-5 interspace. Treatment included acupuncture, chiropractic, injections, aqua therapy and analgesics. A medical report dated 5/31/13 note the employee continues to experience constant low back pain and stiffness, intermittent left knee pain, and muscle spasms.

ACOEM guidelines state there is no scientific evidence supporting the “long-term effectiveness of surgical decompression or fusion for degenerative lumbar spondylosis”. Medical records submitted for review do not indicate any instability and there is no evidence to indicate the need for spinal fusion. The request for lumbar spine fusion L4-L5 interspace and posterior instruments fusion of L4-L5 **is not medically necessary and appropriate.**

Effect of the Decision:

The determination of MAXIMUS Federal Services and its physician reviewer is deemed to be the final determination of the Administrative Director, Division of Workers' Compensation. With respect to the medical necessity of the treatment in dispute, this determination is binding on all parties.

In accordance with California Labor Code Section 4610.6(h), a determination of the administrative director may be reviewed only if a verified appeal is filed with the appeals board for hearing and served on all interested parties within 30 days of the date of mailing of the determination to the employee or the employer. The determination of the administrative director shall be presumed to be correct and shall be set aside only upon proof by clear and convincing evidence of one or more of the grounds for appeal listed in Labor Code Section 4610.6(h)(1) through (5).

Sincerely;

Richard C. Weiss, MD, MPH, MMM, PMP
Medical Director

cc: Department of Industrial Relations
Division of Workers' Compensation
1515 Clay Street, 18th Floor
Oakland, CA 94612

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Disclaimer: MAXIMUS is providing an independent review service under contract with the California Department of Industrial Relations. MAXIMUS is not engaged in the practice of law or medicine. Decisions about the use or nonuse of health care services and treatments are the sole responsibility of the patient and the patient's physician. MAXIMUS is not liable for any consequences arising from these decisions.