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**Notice of Independent Medical Review Determination**

Dated: 9/6/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee:	[REDACTED]
Claim Number:	[REDACTED]
Date of UR Decision:	7/8/2013
Date of Injury:	1/17/2012
IMR Application Received:	7/17/2013
MAXIMUS Case Number:	CM13-0001755

- 1) MAXIMUS Federal Services, Inc. has determined the request for an anterior lumbar discectomy and fusion at L4-L5, L5-S1 with allograft and cage plate **is medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/17/2013 disputing the Utilization Review Denial dated 7/8/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/19/2013. 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 an anterior lumbar discectomy and fusion at L4-L5, L5-S1 with allograft and cage plate is **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 report by Dane Street dated July 5, 2013.

**CLINICAL SUMMARY:** According to the clinical documentation, the patient is a 50-year-old individual who sustained an injury on 1/17/12 while pulling very large tables and vacuuming. The patient felt a pop in the low back followed by a severe pain. According to Primary Treating Physician's Substantial Change in Condition Report dated 6/24/13 by Dr. [REDACTED] the patient complained of increasing pain and the pain was not tolerable at this level. The patient stated, "I can't live with this". The patient had failed all aspects of conservative treatment. The patient complained of pain radiating from low back into left lower extremity. Pain was associated with numbness, paresthesia, and weakness. The patient had back spasms. Pain was rated at 6/10. The patient consumed one-quarter pack of cigarettes per day. There was no recent psychological evaluation documented in the clinical records submitted. On examination of the back and lower extremities, reflexes were 2+ on bilateral knees and right ankle, and 1+ on left ankle. Sensory was decreased in the L5 and S1. Motor strength was 4/5 on left L5 and S1. Babinski's sign was decreased bilaterally. Clonus was negative. Straight leg raise was positive on the left and negative on the right. Gait was antalgic. The patient had approximately 50 percent loss of range of motion of the lumbar spine. The patient had positive lumbosacral tenderness. Current medications included Percocet, tramadol, Naprosyn, Fexmid, Terocin, Lopressor, Norvasc, hydrochlorothiazide, Ropinirole, Celexa, and imipramine. Dose and scheduled use of the medications were not documented. The patient was status post gallbladder surgery in 3/1993 and hysterectomy in approximately 2005. As documented in Emergency Report dated 12/30/12 by Dr. [REDACTED]

the patient was given Dilaudid and Toradol injection with improvement. As documented in Orthopedic Spine Surgery Consultation dated 8/29/12 by Dr. the patient had several injections without relief (dates of injections were not documented). As documented in PR-2 Report dated 3/29/12 by Dr. the patient was in therapy and it had been helpful. The total number of visits was not documented. Diagnoses were disc herniations, L4-L5 and L5-S1; degenerative disc diseases L4-L5 and L5-S1; and lumbar instability L4-L5 and L5-S1. The patient had failed all aspects of conservative modalities. Surgical intervention was warranted. Treatment plan included anterior lumbar decompression and fusion at L4-L5 and L5-S1, with allograft, interbody cage, and anterior lumbar plating with assistant surgeon; lumbar support and a bone stimulator postoperatively; hot/cold therapy unit in the perioperative period for modulation of heat and cold as well as a muscle stimulator for muscle reeducation. The patient was considered temporarily totally disabled pending surgical intervention. Radiograph of the lumbar spine including lateral flexion/extension dated 3/20/13 (interpreting doctor not noted) documented mild retrolisthesis L4/L5 with disc space narrowing and disc space narrowing with spondylosis at L5/S1. There was approximately 5 mm of translational motion on lateral flexion/extension views at both L4/L5 and L5/S1. There was no fracture or tumor. Magnetic resonance imaging (MRI) of the lumbar spine dated 5/20/13, interpreted by Dr. documented 1) L4-L5: slight retrolisthesis of L4 over L5. The disc was moderately desiccated with punctate posterior annular fissure and broad-based 3 mm protrusion slightly indenting the ventral surface of the thecal sac. There was facet and ligamentum flavum hypertrophy. There was no spinal stenosis or lateral recess compromise. The neural foramina were patent; and 2) L5-S1: retrolisthesis of L5 over S1 by 3 mm. The disc was severely desiccated and decreased in height with punctate posterior annular fissure and posterior central extrusion that measured 5 mm in depth, slightly displacing the traversing S1 nerve root on both sides. There was facet and ligamentum flavum hypertrophy. There was no spinal stenosis. There was bilateral moderate foraminal compromise with slight indentation of fat along the posterior margin of exiting L5 nerve root on both sides. This is a review of medical necessity for 2-level fusion surgery at L4/5, L5/S1 with allograft, cage plate with 3 day in-patient stay at Sharp Memorial (MPN facility); CMF spinalogic bone growth stimulator, LSO back brace, muscle stimulator (and monthly supplies), hot/cold therapy unit; and postoperative physical therapy at 2 times a week for 6 weeks.

#### **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:

- Applications (2) for Independent Medical Review
- Utilization Review Letter by (dated 7/8/13)
- Utilization Review Report by (dated 7/5/13)
- Letter from Claims Administrator (dated 4/3/13)
- Progress Reports by , M.D. (dated 1/9/13)
- MRI Report by (dated 5/20/13)
- Medical Records by (dated 3/20/13 to 6/28/13)
- Medical Records by (dated 7/22/12 to 2/20/13)
- Neurodiagnostic Evaluation by , M.D. (dated 10/15/12)

- American College of Occupational and Environmental Medicine (ACOEM), 2<sup>nd</sup> Edition, (2004) – Low Back Complaints Chapter, pages 305-310
- Official Disability Guidelines (ODG) – Low Back Chapter, Fusion (spinal) and Transplantation (intervertebral disc) sections

**1) Regarding the request for an anterior lumbar discectomy and fusion at L4-L5, L5-S1 with allograft and cage plate:**

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

The Claims Administrator based its decision on the American College of Occupational and Environmental Medicine (ACOEM), 2<sup>nd</sup> Edition, (2004) – Low Back Complaints Chapter, pages 308-310, which are part of the California Medical Treatment Utilization Schedule (MTUS). The Claims Administrator also cited the Official Disability Guidelines (ODG) – Low Back Chapter, Fusion (spinal) and Transplantation (intervertebral disc) sections, which are medical treatment guidelines that are not part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the section of the MTUS used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee was injured on 1/17/2012 and has experienced ongoing back and radicular pain that radiates through the left hip and leg, and increases with sitting, standing, and walking. The medical records received and reviewed indicate high-grade degenerative disc disease at L4-5 and L5-S1. The records also demonstrate a lack of improvement after conservative care, which has included imaging studies, epidural steroid injections, medications (Percocet, Naprosyn, and topical creams), lumbar support, physical therapy, modified work duty, off-work status, and other treatments. A request was submitted for an anterior lumbar discectomy and fusion at L4-L5, L5-S1 with allograft and cage plate.

The ACOEM Guidelines indicate fusion may be appropriate for patients who have structural instability, high-grade degenerative change, ongoing pain, and lack of improvement with appropriate conservative care. The records submitted show evidence of these symptoms and document the employee's failed attempt at conservative care. The guideline criteria are met. The request for an anterior lumbar discectomy and fusion at L4-L5, L5-S1 with allograft and cage plate is 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, 18<sup>th</sup> 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.