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**Notice of Independent Medical Review Determination**

Dated: 9/24/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee: [REDACTED]  
Claim Number: [REDACTED]  
Date of UR Decision: 7/3/2013  
Date of Injury: 3/7/2012  
IMR Application Received: 7/18/2013  
MAXIMUS Case Number: CM13-0001976

- 1) MAXIMUS Federal Services, Inc. has determined the request for L4-5, L5-S1 anterior lumbar body fusion (stage 1) with intraoperative neuromonitoring **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for L4-5, L5-S1 anterior lumbar body fusion with pedical screw instrumentation (stage 2) with intraoperative neuromonitoring **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for a lumbar back brace **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for 3 day inpatient hospital stay **is not medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/18/2013 disputing the Utilization Review Denial dated 7/3/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/23/2013. 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 L4-5, L5-S1 anterior lumbar body fusion (stage 1) with intraoperative neuromonitoring **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for L4-5, L5-S1 anterior lumbar body fusion with pedical screw instrumentation (stage 2) with intraoperative neuromonitoring **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for lumbar back brace **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for the 3 day inpatient hospital stay **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 Neurological Surgery, has a subspecialty in Complex Spine 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 3, 2013

According to the clinical documentation, the patient is a 47 -year-old who sustained an injury on 03/07/12 while lifting a tray of dishes full of 32-ounce root beer mugs to place in a dishwasher. Diagnostic Imaging Report dated 04/18/12, interpreted by [REDACTED], MD, documented 1. No abnormal motion on flexion and extension. 2. Ankylosis of the lumbosacral interspace. 3. Degenerative disc disease at the T12 interspace with associated hypertrophic changes. 4. Minimal anterior wedge compression fracture of T11 was of unknown chronicity. 5. There was a minimal lumbar curve convex on the left. According to the Neurosurgical Lumbar Spine Follow-up Visit by Dr. [REDACTED] dated 04/02/12, the patient's past medical history was significant for migraine and arthritis. Family medical history was significant for renal failure, hypertension, mouth cancer, cerebrovascular accident, alcoholism, and cirrhosis. The patient quit smoking in 2002 and had three cigarettes a day for five years. According to the Progress Report by Dr. [REDACTED] dated 03/15/13, electromyography/nerve conduction studies dated 11/27/12 was reviewed and documented normal incomplete study. There was no electrodiagnostic evidence of right peroneal, tibial neuropathy or right S 1 radiculopathy. However, no comment on right lumbosacral radiculopathy as

the test was incomplete due to the needle exam not been performed due to patient's discomfort and at the patient's request to discontinue the test. There was no objective interpretation of the results attached in the medical report submitted. Magnetic resonance imaging (MRI) of the lumbar spine dated 05/13/13, interpreted by Dr. [REDACTED] documented 1. Transitional lower lumbar vertebrae consistent with numbering or prior MRI and previous plain films were considered L5. 2. Degenerative disc disease at T12-L1 with small disc bulging but no central stenosis. 3. Narrowing desiccation with disc spur complex at L5-S 1 eccentric to the left without significant central or foramina! stenosis. 4. Small disc bulging and L4-L5 without significant stenosis. 5. Small left-sided disc protrusion at L3-L4 without significant central or foramina! stenosis. According to the Neurosurgical Lumbar Spine Follow-up Visit by Dr. [REDACTED] dated 05/31/13, the patient continued having persistent lower back pain with radiating leg pain with numbness/tingling and was unable to maintain gainful employment despite excellent conservative management with physical therapy, epidural steroid injections, medications and aqua therapy. The pain radiated into the right buttock and down the dorsolateral thigh, knee, calf, and into the right heel and plantar aspect of the right foot with corresponding constant numbness/tingling along the same dermatomal distribution. The patient had pain radiating into the left buttock. Overall, the pain was 80% in the lower back and 20% in the right leg and at times, the pain in the lower back and legs were equal. In the legs, the pain was 90% in the right leg and 10% in the left leg. The patient was unable to complete the needle portion of the EMG/NCV study and a repeat study was denied by worker's compensation. On examination, standing range of motion of the back was 20 degrees. Heel walking and toe walking was not possible. The patient was able to get up on heels and toes but not able to walk. Heel to toe raising was diminished on the right. Deep knee bending was diminished on the right. Gait was broad based. Tandem was off. Seated straight leg raising was 70-80 degrees on the right. Motor exam was 4/5, right greater than left knee flexion, and extension and plantar flexion and dorsiflexion. "Sensory exam showed right dorsolateral thigh, posterior thigh, lateral calf, ankle, and entire right foot." Knee and ankle reflexes were 2-3+ that was hyperreflexic. Triceps, bicep, and "BR" were hyperreflexic. The patient's pain, symptoms, and weakness have been refractory to nearly a year and a half of conservative treatment with physical therapy, aqua therapy, and epidural steroid injection and were unable to maintain gainful employment. Request is for L4-L5 and L5-S 1 global arthrodesis. Clinical assessment included L5-S 1 complete interspace collapse with no effective remaining disc space/substance with associated severe modic changes and corresponding moderate to severe facet arthropathy and moderate foramina! stenosis, right greater than left, with right foramina! nerve root impingement, and L4-L5 continued central protrusion seen in MRI dated 05/13/13, severe desiccation with complete loss of water content modic changes, interspace narrowing, moderate to severe trefoil lateral recess stenosis secondary to facet arthropathy. The patient was diagnosed with spinal stenosis, lumbar region, without neurogenic claudication (724.02), and displacement of lumbar intervertebral disc without myelopathy (722.10). Previous treatments included nine visits of physical therapy according occupational therapy the Physical Therapy Discharge Summary Report by [REDACTED], MPT, dated 02/28/13. No psychological assessment documented in the medical records submitted with this request. This is a review for medical necessity of L4-L5 and L5-S 1 anterior lumbar body fusion (stage 1) with intraoperative neuromonitoring (CPT codes 22325, 22328, 22558, 22585, 22845, 22846, 22851x2, 20930), L4-L5 and L5-S 1 posterior lumbar fusion with pedicle screw instrumentation (stage 2) with intraoperative neuromonitoring (CPT codes: 22842, 22612, 22614 63047, 63048, 22630, 22632), lumbar back brace (L0637), and 3 day inpatient hospital stay.

**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 dated 7/18/2013
- Utilization Review Determination from [REDACTED] dated 7/03/2013
- Medical Records from 9/20/2012 through 7/11/2013
- Medical Treatment Utilization Schedule

**1) Regarding the request for L4-L5, L5-S1 anterior lumbar body fusion (stage1) with intraoperative neuromonitoring:****Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:**

The Claims Administrator based its decision on the Official Disability Guidelines (ODG), Current Version, Low Back Section, Spinal Fusion, a medical treatment guideline (MTG) not part of the Medical Treatment Utilization Schedule (MTUS). The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the American College of Occupational and Environmental Medicine (ACOEM) guidelines, 2004, 2<sup>nd</sup> Edition, Low Back Complaints, Spinal Fusion, page 307, part of the MTUS, applicable and relevant to the issue at dispute.

**Rationale for the Decision:**

The employee injured the low back on 3/07/2012. The submitted and reviewed medical records indicate that the employee has had X-Rays, MRIs, Electrodiagnostic studies (EMG/NCV), physical therapy, and pain medications. According to the most recent submitted medical report, dated 7/11/2013, the employee was experiencing persistent low back pain rated at 8/10, spasms, and pain radiating down into both groin areas. A request was submitted for L4-L5, L5-S1 anterior lumbar body fusion (stage 1) with intraoperative neuromonitoring, L4-L5, L5-S1 anterior body fusion with pedicle screw instrumentation (stage 2) with intraoperative neuromonitoring, a lumbar back brace, and a three day hospital stay.

The MTUS ACOEM guidelines state that “there is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problem, in the absence spinal fracture, dislocation, or spondylolisthesis if there is instability and motion in the segment operated on.” The reviewed medical records do not document that there is instability in the segments under surgical consideration. The request for L4-L5, L5-S1 anterior lumbar body fusion (stage 1) with intraoperative neuromonitoring is not medically necessary and appropriate.

**2) Regarding the request for L4-L5, L5-S1 anterior lumbar body fusion with pedical screw instrumentation (stage2) with intraoperative neuromonitoring:**

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

The Claims Administrator based its decision on the Official Disability Guidelines (ODG), Current Version, Low Back Section, Spinal Fusion, a medical treatment guideline (MTG) not part of the Medical Treatment Utilization Schedule (MTUS). The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the American College of Occupational and Environmental Medicine (ACOEM) guidelines, 2004, 2<sup>nd</sup> Edition, Low Back Complaints, Spinal Fusion, page 307, part of the MTUS, applicable and relevant to the issue at dispute.

Rationale for the Decision:

The employee injured the low back on 3/07/2012. The submitted and reviewed medical records indicate that the employee has had X-Rays, MRIs, Electrodiagnostic studies (EMG/NCV), physical therapy, and pain medications. According to the most recent submitted medical report, dated 7/11/2013, the employee was experiencing persistent low back pain rated at 8/10, spasms, and pain radiating down into both groin areas. A request was submitted for L4-L5, L5-S1 anterior lumbar body fusion (stage 1) with intraoperative neuromonitoring, L4-L5, L5-S1 anterior body fusion with pedicle screw instrumentation (stage 2) with intraoperative neuromonitoring, a lumbar back brace, and a three day hospital stay.

The MTUS ACOEM guidelines state that “there is no good evidence from controlled trials that spinal fusion alone is effective for treating any type of acute low back problem, in the absence spinal fracture, dislocation, or spondylolisthesis if there is instability and motion in the segment operated on.” The reviewed medical records do not document that there is instability in the segments under surgical consideration. The request for L4-L5, L5-S1 anterior lumbar body fusion with pedicle screw instrumentation (stage 2) with intraoperative neuromonitoring is not medically necessary and appropriate.

**3) Regarding the request for a lumbar back brace:**

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

The Claims Administrator based its decision on the Official Disability Guidelines (ODG) Current Version, Low Back Section, Lumbar Supports, a medical treatment guideline (MTG) not part of the Medical Treatment Utilization Schedule (MTUS). The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found no section of the MTUS guidelines applicable and relevant to the issue at dispute. The Expert Reviewer found the section of the ODG used by the Claims Administrator applicable and relevant to the issue at dispute.

Rationale for the Decision:

The employee injured the low back on 3/07/2012. The submitted and reviewed medical records indicate that the employee has had X-Rays, MRIs, Electrodiagnostic studies (EMG/NCV), physical therapy, and pain medications. According to the most recent submitted medical report, dated 7/11/2013, the employee was experiencing persistent low back pain rated at 8/10, spasms, and pain radiating down into both groin areas. A request was submitted for L4-L5, L5-S1 anterior lumbar body fusion (stage 1) with intraoperative neuromonitoring, L4-L5, L5-S1 anterior body fusion with pedicle screw instrumentation (stage 2) with intraoperative neuromonitoring, a lumbar back brace, and a three day hospital stay.

The requested L4-L5, L5-S1 lumbar surgery was determined to be not medically necessary making the request for a lumbar back brace irrelevant. The request for a lumbar back brace is not medically necessary and appropriate.

**4) Regarding the request for a 3 day hospital stay:**

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

The Claims Administrator based its decision on the Official Disability Guidelines (ODG), Low Back Section, Hospital Stays, a medical treatment guideline (MTG) not part of the Medical Treatment Utilization Schedule (MTUS). The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found no section of the MTUS applicable and relevant to the issue at dispute. The Expert Reviewer found the section of the ODG used by the Claims Administrator applicable and relevant to the issue at dispute.

Rationale for the Decision:

The employee injured the low back on 3/07/2012. The submitted and reviewed medical records indicate that the employee has had X-Rays, MRIs, Electrodiagnostic studies (EMG/NCV), physical therapy, and pain medications. According to the most recent submitted medical report, dated 7/11/2013, the employee was experiencing persistent low back pain rated at 8/10, spasms, and pain radiating down into both groin areas. A request was submitted for L4-L5, L5-S1 anterior lumbar body fusion (stage 1) with intraoperative neuromonitoring, L4-L5, L5-S1 anterior body fusion with pedicle screw instrumentation (stage 2) with intraoperative neuromonitoring, a lumbar back brace, and a three day hospital stay.

The L4-L5, L5-S1 anterior lumbar body fusion previously requested was determined to be not medically necessary making this request irrelevant. The request for a three day hospital stay 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, 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.