
Notice of Independent Medical Review Determination

Dated: 10/29/2013

[REDACTED]

[REDACTED]

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 7/8/2013
Date of Injury: 4/27/2011
IMR Application Received: 7/22/2013
MAXIMUS Case Number: CM13-0002574

- 1) MAXIMUS Federal Services, Inc. has determined the request for L4-5 fusion **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for L4-5 decompression **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for initial post-op lumbar physical therapy three times a week **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/22/2013 disputing the Utilization Review Denial dated 7/8/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/25/2013. 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 fusion **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for L4-5 decompression **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for initial post-op lumbar physical therapy three times a week **is not medically necessary and appropriate.**

Medical Qualifications of the Expert Reviewer:

The expert reviewer 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 8, 2013:

"According to the clinical documentation, the patient is a 37-year-old who sustained an injury on 04/27 / 11. The patient was lifting a 50-pound box of potatoes and developed lumbar spine pain and later on developed left lower extremity pain. According to the Operative Report by Dr. [REDACTED] dated 01/10/13, the patient underwent L4-L5 laminectomy with bilateral medial facetectomy and foramlnotomies decompressing the L4 and L5 nerve roots, use of fluoroscopy, and use of microscope. According to the Spine Surgery Follow-up Evaluation Report by Dr. [REDACTED] dated 05/31/13, the patient was four and a half months following the lumbar decompression. The patient stated that the pain had recurred and the patient had the same pain prior to surgery. Magnetic resonance imaging (MRI) of the lumbar spine on 06/07 / 13, interpreted by Dr. [REDACTED], documented 1. Straightening of the normal lumbar lordotic curvature which might reflect an element of myospasm. 2. Disc desiccation with loss of height of IA-L5 intervertebral disc. 3. Left paracentral annular fissure at the L3-L4 intervertebral disc. 4. At L4-L5, there was diffuse disc herniation measuring 3.5 mm posteriorly pre-axial loading and 3.5 mm post-axialloading that caused bilateral neural foramina! stenosis and spinal canal stenosis. According to the Spine Surgery Follow-up Evaluation Report by Dr. [REDACTED] dated 06/18/13, it was documented that an L4-L5 revision decompression and fusion was recommended when seen for evaluation three weeks ago. On examination of the lumbar spine, there was normal lordosis. There

was tenderness over the paraspinal musculature. There was no tenderness over the spinous processes. Range of motion showed flexion at 60 degrees, extension at 25 degrees, and lateral flexion (right/left) at 25/25 degrees. Range of motion of the right and left hip was within normal limits in all planes of motion. Motor strength of the right and left lower extremity muscles were graded 5/5. There was diminished sensation over the left L5 dermatome. Achilles and patellar reflexes were graded 2+. There was no Achilles clonus. Straight leg raising test was negative. Clinical assessment included status post lumbar decompression with persistent left L5 radiculopathy. The patient failed with conservative treatment with anti-inflammatories, physical therapy, injections, and decompressive surgery, and had persistent neurological deficit that was concordant with the MRI findings of persistent stenosis that if decompressed would cause iatrogenic instability. Revision decompression with a fusion to restore stability to the anticipated iatrogenic instability was recommended. Smoking history and psychological assessment not documented in the medical records submitted with this request. This is a review for medical necessity of IA-L5 fusion request for authorization (RFA) 06/28/13 Q1Y: 1.00, L4-L5 decompression request for authorization (RFA) 06/28/13 Q1Y: 1.00 and initial post-op lumbar physical therapy 3x/week RFA 07/01/13 Q1Y: 12.00 (if surgery is certified or modified, please do not review the post-op physical therapy)."

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 7/22/13)
- Utilization Review Determination from [REDACTED] (dated 7/08/13)
- Employee Medical Records from [REDACTED]
- Medical Treatment Utilization Schedule (MTUS)

1) Regarding the request L4-5 fusion :

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) 2nd edition, (2004) Low Back Complaints, pg 308-310 which is part of the Medical Treatment Utilization Schedule (MTUS) and the Official Disability Guidelines (ODG) 2013 Low Back Complaints which is not part of the (MTUS). The Expert Reviewer found the guidelines used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee sustained a work-related injury on 4/27/2011 to the lower back. Medical records provided for review indicate treatments have included surgery, physical therapy, steroid injections, and medication management. The request is for L4-5 Fusion.

The California MTUS/ACOEM Low Back Chapter indicates that for surgical procedures, there should be severe disabling lower leg symptoms in a distribution consistent with abnormalities on imaging studies, activity limitations due to radiating pain for more than 1 month, clear clinical imaging and

electrophysiologic evidence of a lesion that has been shown to benefit in both the short and long-term from surgical repair and failure of conservative treatment to resolve disabling radicular symptoms. Guidelines also indicate the need for a psychological screening and that there should be 2 failed decompression surgeries before a fusion is considered. In this case, the submitted medical records indicate that at L4-5 level, there is a diffuse disc bulge causing mild bilateral neural foraminal stenosis and mild spinal canal stenosis. A recent physical exam dated 06/18/2013 revealed that the employee had 5/5 strength throughout with diminished sensation over an L4-5 distribution to the left and reflexes were preserved at 2+ at both the Achilles and patellae. The rationale for providing the employee with a fusion versus lesser surgical procedures has not been demonstrated due to lack of documentation of instability and documentation of only one previous surgery. The request for L4-5 fusion **is not medically necessary and appropriate.**

2) Regarding the request for L4-5 decompression :

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) 2nd edition, (2004) Low Back Complaints, pg. 308-310 which is part of the Medical Treatment Utilization Schedule (MTUS) and the Official Disability Guidelines (ODG) 2013 Low Back Complaints which is not part of the (MTUS). The Expert Reviewer found the guidelines used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee sustained a work-related injury on 4/27/2011 to the lower back. Medical records provided for review indicate treatments have included surgery, physical therapy, steroid injections, and medication management. The request is for L4-5 Decompression.

The California MTUS/ACOEM Low Back Chapter indicates that for surgical procedures, there should be severe, disabling lower leg symptoms in a distribution consistent with abnormalities on imaging studies, activity limitations due to radiating pain for more than 1 month, clear clinical imaging and electrophysiologic evidence of a lesion that has been shown to benefit in both the short and long-term from surgical repair and failure of conservative treatment to resolve disabling radicular symptoms. In this case, the submitted MRI indicates that there is a diffuse disc herniation at L4-5, only mild bilateral neural foraminal stenosis and mild spinal canal stenosis. The most recent clinical exam dated 06/18/2013 revealed that the employee has decreased sensation in an L4 dermatome, but motor and reflexes are preserved. Straight leg raise was negative, with only mild spinal canal stenosis and mild neural foraminal stenosis and no electrodiagnostic evidence confirming radiculopathy as recommended by guidelines. The request for L4-5 Decompress **is not medically necessary and appropriate.**

3) Regarding the request initial post-op lumbar physical therapy three times a week:

Since the request for the L4-5 fusion and the L4-5 decompression is not medically necessary none of the associated requests for Physical Therapy are medically necessary.

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.