

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

P.O. Box 138009

Sacramento, CA 95813-8009

(855) 865-8873 Fax: (916) 605-4270



Notice of Independent Medical Review Determination

Dated: 11/15/2013

[REDACTED]

[REDACTED]

Employee:

Claim Number:

Date of UR Decision:

Date of Injury:

IMR Application Received:

MAXIMUS Case Number:

[REDACTED]

7/8/2013

7/29/1999

8/1/2013

CM13-0005400

- 1) MAXIMUS Federal Services, Inc. has determined the request for **surgery-spinal posterior cervical fusion C3-4 and removal of instrumentation, back** is not medically necessary and appropriate.

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/1/2013 disputing the Utilization Review Denial dated 7/8/2013. A Notice of Assignment and Request for Information was provided to the above parties on 8/15/2013. 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 **surgery-spinal posterior cervical fusion C3-4 and removal of instrumentation, back** 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.

Expert Reviewer Case Summary:

This claimant is a 55-year-old male with complaints of neck pain. On 12/21/2011, anesthesia records were submitted, indicating the claimant had undergone a C3-4 anterior cervical discectomy and fusion with instrumentation on that date. On 08/22/2012, the claimant returned to clinic. At that time, he stated his symptoms had slightly increased with continued spasms and difficulty driving. Pain medication was thought to be beneficial. Medications at that time included Cymbalta, Motrin, Duragesic, and Zanaflex. Cervical range of motion was stated to be 70% of normal in flexion, extension, and rotation. Bilateral upper extremity range of motion was 100%. Spurling's maneuver was negative. Motor function testing was 5/5 in all muscle groups tested of the upper extremities and reflexes were all rated at 2 bilaterally. There was no sensory hyperesthesia noted. There was no clonus and he had a negative Hoffmann's at that time. On 01/29/2013, a CT of the cervical spine was performed. This exam revealed, in comparison with the prior CT dated 12/14/2010, there were postsurgical changes, consistent with an anterior cervical discectomy and fusion at C3-4, C4-5, C5-6, and C6-7 with anterior fixation plates and screws at C3-4, right-sided lateral mass screws at C4, C5, C6, and C7 with multi-level left-sided laminotomy defects being seen. There was an incomplete fusion at C3-4 and there were moderate-severe degenerative changes of the cervical spine. He returned to clinic on 07/01/2013 for re-evaluation. Muscle strength was 5/5 in all muscle groups tested of the upper extremities and he continued to have restricted range of motion of the cervical spine secondary to pain. He was alert and oriented and had no acute distress. Diagnosis continued to include pseudoarthrosis at C3-4. On 07/02/2013, he was seen in clinic. At that time, he was status post C3-4 facet injections, which he stated was not getting great relief. Pain was still rated at 7/10. Although it was noted that he had a non-union at C3-4, another injection was recommended; but he did not feel comfortable with trying an injection again, since it did not give him great relief. He wanted to move forward with his surgical stabilization.

This would be diffuse C3-4 posteriorly, with removal of instrumentation that he already had in. The plan was to fuse C3 down to about C5 or C6, depending on where his fusion mass was. On 07/08/2013, a Physician Advisor Recommendation Document was submitted, indicating that the requested surgery was denied for spinal posterior cervical fusion at C3-4. Another modification letter was submitted on 07/08/2013, indicating that the request was modified for posterior cervical fusion from C3 to C6 or C7, with removal of hardware at C3-4. A denial letter was submitted on 07/08/2013, denying the requested spinal posterior cervical fusion at C3-4. On 08/06/2013, this claimant was seen back in clinic. He was status post C3-4 posterior cervical fusion, performed approximately 10 days prior to this presentation. He stated he continued to have spasms, but was doing well and incision was well-healed. He was given a prescription for physical therapy and instructed to followup in 1 month for x-rays.

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 of Independent Medical Review
- Utilization Review Determination
- Medical Records from Claims Administrator
- Medical Treatment Utilization Schedule (MTUS)

1) Regarding the request for surgery-spinal posterior cervical fusion C3-4 and removal of instrumentation, back :

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator did not cite any evidence based criteria for its decision.

The Expert Reviewer based his/her decision on the Neck and Upper Back Complaints Chapter (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 8) pgs. 179-180, which is part of MTUS. The Expert Reviewer also based his/her decision on the Official Disability Guidelines (ODG), Neck Chapter, which is not part of MTUS.

Rationale for the Decision:

The MTUS/ACOEM neck chapter does not specifically discuss the fusion and the ODG neck chapter states this procedure is “under study.” The employee has been seeing two surgeons, each of whom wanted to perform the requested surgery. The C3-4 fusion was performed by surgeon [REDACTED] even after the surgery request was denied by the Claims Administrator. There is a request by [REDACTED] to do another C3-4 fusion; according to the medical records provided, the employee returned to [REDACTED] 10 days after surgery, complaining of some spasms but was doing well. His incisions were well-healed at that time and he was to be started on physical therapy. As the fusion has already been performed, there is a lack of rationale for proceeding and/or authorizing the same procedure by [REDACTED]. **The request for surgery-spinal posterior cervical fusion C3-4 and removal of instrumentation, back 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,

Paul Manchester, MD, MPH
Medical Director

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

/reg

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.