

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 12/13/2013

[REDACTED]

[REDACTED]

Employee:

[REDACTED]

[REDACTED]

Date of UR Decision:

7/24/2013

Date of Injury:

4/6/2011

IMR Application Received:

8/5/2013

MAXIMUS Case Number:

CM13-0006494

- 1) MAXIMUS Federal Services, Inc. has determined the request for inpatient surgery, C6-7 anterior cervical decompression and fusion with assistant surgeon, and 3 days hospital stay **is medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for a 3 day hospital stay **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for 36 post-operative physical therapy sessions **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/5/2013 disputing the Utilization Review Denial dated 7/24/2013. A Notice of Assignment and Request for Information was provided to the above parties on 8/23/2013. 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 inpatient surgery, C6-7 anterior cervical decompression and fusion with assistant surgeon, and 3 days hospital stay **is medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for a 3 day hospital stay **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for 36 post-operative physical therapy sessions **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:

55 year old female with a work related injury 4/6/11 with low back and neck pain. MRI of the cervical spine 9/20/12 demonstrates borderline thecal sac stenosis of 10 mm with bilateral neural foraminal stenosis. EMG/NCV testing 10/12/12 demonstrated abnormal evidence of right C5/6 radiculopathy. Physical examination demonstrates from 6/12/13 positive Spurling's sign with 4/5 right triceps and wrist flexors. Status post course of physical therapy, aquatic therapy, chiropractic and epidural steroid injection.

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 inpatient surgery, C6-7 anterior cervical decompression and fusion with assistant surgeon:

The Medical Treatment Guidelines 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) Guidelines 2004 edition Chapter 8 Neck and Upper Back Complaints, pg. 180, which is a part of the MTUS and the Official Disability Guidelines (ODG) Upper Neck and Back (Acute & Chronic) Procedure Summary, which is not a part of the MTUS.

The Expert Reviewer found that no section of the MTUS was applicable. Per the Strength of Evidence hierarchy established by the California Department of Industrial Relations, Division of Workers' Compensation, the Expert Reviewer based his/her decision on the Official Disability Guidelines (ODG), regarding discectomy/laminectomy, ODG Indications for Surgery.

Rationale for the Decision:

Anterior cervical discectomy and fusion is the standard of care for symptomatic cervical spondylitic radiculopathy recalcitrant to non-operative care with clear evidence of correlating physical exam findings with advanced imaging (1,2,3). A review of the records indicates that in this particular case, the documentation has demonstrated clear evidence of neural compression and the reading of the MRI is concordant with the employee's neurologic deficit. The ACOEM Guidelines do not apply as the case is chronic. The California MTUS does not address this situation. According to the Official Disability Guidelines regarding discectomy-laminectomy-laminoplasty, ODG, Indications for Surgery Discectomy/laminectomy (excluding fractures): Washington State has published guidelines for cervical surgery for the entrapment of a single nerve root and/or multiple nerve roots. Their recommendations require the presence of all of the following criteria prior to surgery for each nerve root that has been planned for intervention (but ODG does not agree with the EMG requirement): A) There must be evidence of radicular pain and sensory symptoms in a cervical distribution that correlate with the involved cervical level or presence of a positive Spurling test. B) There should be evidence of motor deficit or reflex changes or positive EMG findings that correlate with the cervical level. *Note:* Despite what the Washington State guidelines say, ODG recommends that EMG is optional if there is other evidence of motor deficit or reflex changes. EMG is useful in cases where clinical findings are unclear, there is a discrepancy in imaging, or to identify other etiologies of symptoms such as metabolic (diabetes/thyroid) or peripheral pathology (such as carpal tunnel). C) An abnormal imaging (CT/myelogram and/or MRI) study must show positive findings that correlate with nerve root involvement that is found with the previous objective physical and/or diagnostic findings. If there is no evidence of sensory, motor, reflex or EMG changes, confirmatory selective nerve root blocks may be substituted if these blocks correlate with the imaging study. The block should produce pain in the abnormal nerve root and provide at least 75% pain relief for the duration of the local anesthetic. D) Etiologies of pain such as metabolic sources (diabetes/thyroid disease) non-structural radiculopathies (inflammatory, malignant or motor neuron disease), and/or peripheral sources (carpal tunnel syndrome) should be addressed prior to cervical surgical

procedures. E. There must be evidence that the patient has received and failed at least a 6-8 week trial of conservative care.”

According to the Official Disability Guidelines regarding fusion, anterior cervical, “Recommended as an option in combination with anterior cervical discectomy for approved indications, although current evidence is conflicting about the benefit of fusion in general. Evidence is also conflicting as to whether autograft or allograft is preferable and/or what specific benefits are provided with fixation devices. Many patients have been found to have excellent outcomes while undergoing simple discectomy alone (for one- to two-level procedures), and have also been found to go on to develop spontaneous fusion after an anterior discectomy. Cervical fusion for degenerative disease resulting in axial neck pain and no radiculopathy remains controversial and conservative therapy remains the choice if there is no evidence of instability. Conservative anterior cervical fusion techniques appear to be equally effective compared to techniques using allografts, plates or cages. Cervical fusion may demonstrate good results in appropriately chosen patients with cervical spondylosis and axial neck pain. This evidence was substantiated in a recent Cochrane review that stated that hard evidence for the need for a fusion procedure after discectomy was lacking, as outlined below: (1) Anterior cervical discectomy compared to anterior cervical discectomy with interbody fusion with a bone graft or substitute: Three of the six randomized controlled studies discussed in the 2004 Cochrane review found no difference between the two techniques and/or that fusion was not necessary. The Cochrane review felt there was conflicting evidence of the relative effectiveness of either procedure. Overall it was noted that patients with discectomy only had shorter hospital stays, and shorter length of operation. There was moderate evidence that pain relief after five to six weeks was higher for the patients who had discectomy with fusion. Return to work was higher early on (five weeks) in the patients with discectomy with fusion, but there was no significant difference at ten weeks.” Based upon the records reviewed the patient meets criteria for one level cervical fusion.

According to the American College of Surgeons, the first assistant provides aid in exposure, hemostasis, and other technical functions which will help the surgeon carry out a safe operation and optimal results for the patient. The surgeon's first responsibility is to assure good patient care. The quality of an outcome of an orthopaedic procedure is dependent on several factors; among them are the characteristics of the operation itself, the condition of the patient, and the characteristics of the operating environment. While the risk and complexity of the procedure are major considerations, other criteria include the following: The urgency of the patient's condition. An example would be the need to internally fix a limb with vascular compromise. The patient's age and general medical condition - cardiac, pulmonary, metabolic or hematologic factors that may cause complications with increased operative time or blood loss. In general, the more complex or risky the operation, the more highly trained the first assistant should be. Criteria for evaluating the procedure include: anticipated blood loss, anticipated anesthesia time, anticipated incidence of intraoperative complications, procedures requiring considerable judgmental or technical skills; anticipated fatigue factors affecting the surgeon and other members of the operating team procedures requiring more than one operating team. In limb reattachment procedures, the time saved by the use of two operating teams is

frequently critical to limb salvage. It should be noted that reduction in costly operating room time by the simultaneous work of two surgical teams can be cost effective.” The medical records indicate an assistant surgeon is necessary in this case. **The request for inpatient surgery, C6-7 anterior cervical decompression and fusion with assistant surgeon is medically necessary and appropriate.**

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

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the Official Disability Guidelines (ODG) Neck and Upper Backk (Actue and Chronic) Procedure Summary hospital length of stay (LOS), which is not a part of the MTUS.

The Expert Reviewer found that no section of the MTUS was applicable. Per the Strength of Evidence hierarchy established by the California Department of Industrial Relations, Division of Workers' Compensation, the Expert Reviewer based his/her decision on the Official Disability Guidelines regarding length of stay (LOS).

Rationale for the Decision:

CA MTUS ACOEM and CA MTUS Chronic Pain do not address the request for 1-2 days inpatient stay. Regarding Hospital length of stay (LOS), the Official Disability Guidelines states that the ODG hospital length of stay (LOS) guidelines: Discectomy/ Corpectomy (icd 80.51 - Excision of intervertebral disc) Actual data -- median 1 day; mean 2.1 days; Best practice target (no complications) -- 1 day. **The request for a 3 day hospital stay is not medically necessary and appropriate.**

3) **Regarding the request for 36 post-op physical therapy sessions:**

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the CA MTUS Post Surgical Treatment Guidleines, which is a part of the MTUS.

The Expert Reviewer based his/her decision on the Post Surgical Treatment Guidelines, pg. 26, Neck and Upper Back, which is a part of the MTUS.

Rationale for the Decision:

The guidelines recommend 24 postsurgical visits over 16 weeks for a period of 6 months for fusion, after graft maturity. The request for 36 visits of postsurgical physical therapy exceeds guideline recommendations. **The request for 36 post-operative physical therapy sessions 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

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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.