

February 1, 2005

Warren D. Parker, M.D.
Attn: Dawn
6560 Fannin, Suite 1200
Houston, TX 77030

VIA FACSIMILE
Ms. Katie Foster
Fidelity & Guaranty c/o Flahive Ogden & Latson

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-05-0508-01
TWCC #:
Injured Employee:
Requestor: Warren D. Parker, M.D.
Respondent: Fidelity & Guaranty c/o Flahive Ogden & Latson
MAXIMUS Case #: TW04-0520

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the MAXIMUS external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in neurosurgery and is familiar with the condition and treatment options at issue in this appeal. The MAXIMUS physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. In addition, the MAXIMUS physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 43 year-old female who sustained a work related injury on _____. The patient reported that while at work, she injured her back when she "jerked" an object. The initial impression for this patient included probable left L4-L5 herniated nucleus pulposus and status post operative right L4-L5 laminectomy (1997). On 3/11/04, the patient underwent an CT myelogram that indicated a right L4 pars defect, a suspected small superior migrated disc

fragment on the right at L4-L5 medial to the exiting right L4 nerve root, and a small left posterolateral disc herniation at the L4-L5 level extending below the disc space and effacing the left L5 nerve root sleeve. On 4/27/04, the patient underwent a left L4-L5 partial hemilaminectomy, decompressive foraminotomy and disc excision for the preoperative diagnosis of left L4-L5 herniated nucleus pulposus. A MRI scan of the lumbar spine with and without contrast has been recommended for the patient.

Requested Services

MRI lumbar spine with and without contrast.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. History and Physical/Chart Notes 2/17/04 – 10/21/04
2. CT Myelogram report 3/11/04
3. Operative Report 4/27/04

Documents Submitted by Respondent:

1. Texas Outpatient Reconsideration Decision: 10/26/04, 10/15/04

Decision

The Carrier's denial of authorization for the requested services is upheld.

Rationale/Basis for Decision

The MAXIMUS physician reviewer noted that this case concerns a 43 year-old female who sustained a work related injury to her back on _____. The MAXIMUS physician reviewer indicated that the patient has been diagnosed with a left L4-L5 herniated nucleus pulposus. The MAXIMUS physician reviewer also indicated that on 4/27/04, she underwent a left L4-L5 partial hemilaminectomy, decompressive foraminotomy and disc excision. The MAXIMUS physician reviewer noted that a MRI of her lumbar spine with and without contrast has been recommended for further evaluation of her condition. The MAXIMUS physician reviewer explained that the patient has experienced the same symptoms since her surgery. The MAXIMUS physician reviewer indicated that there is no evidence that there has been an adequate trial of non-operative treatment for these symptoms. The MAXIMUS physician reviewer also indicated that there is no evidence the member has received physical therapy for these symptoms. Therefore, the MAXIMUS physician consultant concluded that the requested MRI of the lumbar spine with and without contrast is not medically necessary for diagnosis and treatment of this patient's condition at this time.

This decision is deemed to be a TWCC Decision and Order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10 (ten)** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **20 (twenty)** days of your receipt of this decision. (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed. (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings/Appeals Clerk
P.O. Box 17787
Austin, TX 78744

Fax: 512-804-4011

A copy of this decision should be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute. (Commission Rule 133.308(t)(2)).

Sincerely,
MAXIMUS

Project Manager, State Appeals

cc: Texas Workers Compensation Commission

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 1st day of February, 2005.

Signature of IRO Employee: _____
External Appeals Department