

April 6, 2005

VIA FACSIMILE
Dr. Walter Piskun
Attn: Lisa Guerrero

VIA FACSIMILE
Zurich American Ins. Co.
C/o Flahive Ogden and Latson
Attn: Annette Moffett

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-05-0577-01
TWCC #:
Injured Employee:
Requestor: Dr. Walter Piskun
Respondent: Zurich American Ins. Co. c/o Flahive Ogden & Latson
MAXIMUS Case #: TW04-0536

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 49 year-old male who sustained a work related injury on _____. The patient reported that while at work he injured his back region. The assessment for this patient has included cervical pain, and right extremity radiculopathy manifested by left shoulder pain and right arm numbness. The patient reportedly underwent an MRI of the right shoulder that suggested a moderate outlet related impingement with mild cuff tendonopathy, and showed

paralabral cyst adjacent to the superior labrum. The MRI of the cervical spine indicated a compressive right lateral disc herniation at C5/6 and degenerative changes at C6/7. Treatment for this patient's condition has included epidural steroid injections, medications, and physical therapy. The patient has been recommended for an anterior cervical discectomy with fusion at C5/6 and C6/7 for further treatment of his condition.

Requested Services

Anterior cervical discectomy with fusion at C5/6 and C6/7.

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

Documents Submitted by Requestor:

1. History and Physical 7/27/04 - 10/11/04

Documents Submitted by Respondent:

1. No documents submitted

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 male who sustained a work related injury to his back on _____. The MAXIMUS physician reviewer also noted that an MRI of the cervical spine showed a compressive right lateral disc herniation at C5/6 and degenerative changes at C6/7. The MAXIMUS physician reviewer further noted that the impression for this patient has included cervical pain, and right extremity radiculopathy manifested by right shoulder pain and right arm numbness, and that the patient has been recommended for an anterior cervical discectomy with fusion at C5/6 and C6/7. The MAXIMUS physician reviewer indicated that the patient has radiculopathy with central disc herniation. The MAXIMUS physician reviewer explained that the patient has not undergone a comprehensive or complete trial of nonoperative treatment. The MAXIMUS physician reviewer also explained that medically, the patient is a poor candidate for surgery according to his medical history. The MAXIMUS physician reviewer indicated that attempts at non-surgical treatment should be tried and failed before surgical intervention is considered. Therefore, the MAXIMUS physician consultant concluded that the requested anterior cervical discectomy with fusion at C5/6 and C6/7 is not medically necessary to treat 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

Elizabeth McDonald
State Appeals Department

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 6th day of April 2005.

Signature of IRO Employee: _____
External Appeals Department