

April 7, 2005

VIA FACSIMILE  
Texas Association of Counties WC Self Insurance Fund  
C/o Parker & Associates  
Attn: Bill Weldon

**NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M2-05-1176-01-SS**  
**TWCC #:**  
**Injured Employee:**  
**Requestor:**  
**Respondent: Texas Association of Counties WC Self Insurance Fund c/o Parker & Associates**  
**MAXIMUS Case #: TW05-0053**

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 male who sustained a work related injury on \_\_\_\_\_. The patient reported that while at work he was involved in a motor vehicle accident when the truck he was driving rolled over. The patient was evaluated in the emergency room and subsequently was treated with physical therapy three times a week for four weeks. An MRI of the lumbar spine performed on 9/20/04 revealed moderate lumbar spondylosis, central canal stenosis at L4/5 and L5/S1 with foraminal stenosis noted bilaterally at these two levels, grade I spondylolisthesis of L4 over L5 causing pseudo disc herniation, disc protrusion with bulging disc at L5/S1 level without any frank herniated nucleus pulposus, and disc desiccation at the L4/5 and L5/S1 levels. On 1/6/05 the patient underwent a lumbar myelography with CT scan as a preoperative diagnostic test.

### Requested Services

L4/5/S1 anterior lumbar interbody fusion with posterior fusion and purchase of LSO back brace.

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

#### *Documents Submitted by Requestor:*

1. Accident Report 8/10/04
2. MRI report 9/20/04

#### *Documents Submitted by Respondent:*

1. Operative report 1/6/05
2. Pre-authorization request 1/20/05, 2/3/05
3. Neurosurgery consultation 12/18/04 and follow up note 1/6/05

### 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 the patient has been recommended for a L4/5/S1 anterior lumbar interbody fusion with posterior fusion and the purchase of an LSO back brace for treatment of his condition. The MAXIMUS physician reviewer explained that the documentation provided does not demonstrate that this patient has tried and failed a course of nonoperative treatment. The MAXIMUS physician reviewer indicated that the source of this patient's pain has not been adequately identified. The MAXIMUS physician reviewer explained that without the patient's pain source being identified and no documentation of a failed conservative treatment plan, the medical necessity of the requested procedure has not been established. Therefore, the MAXIMUS physician consultant concluded that the requested L4/5/S1 anterior lumbar interbody fusion with posterior fusion and purchase of LSO back brace 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 7th day of April 2005.

Signature of IRO Employee: \_\_\_\_\_  
External Appeals Department