

May 27, 2005

VIA FACSIMILE  
American Home Assurance  
Attn: Annette Moffett

**NOTICE OF INDEPENDENT REVIEW DECISION  
Amended Determination 6/8/05**

**RE: MDR Tracking #: M2-05-1574-01  
TWCC #:  
Injured Employee:  
Requestor:  
Respondent: American Home Assurance  
MAXIMUS Case #: TW05-0091**

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 orthopedic surgery 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 female who sustained a work related injury on \_\_\_\_\_. The patient reported that while at work she injured her back when a box fell on her. The initial diagnoses for this patient included sprain/strain of the lumbosacral joint/ligament, fasciitis, unspecified, unspecified musculoskeletal disorders and symptoms referable to the neck. The current diagnoses include lumbar radiculopathy, lumbar bulging discs, and insomnia secondary to chronic pain. Treatment for this patient's condition has included physical therapy, work conditioning, work hardening, injections, TENS unit, TLSO, and medications. The patient underwent a lumbar MRI on 2/16/04, and EMG/NCV on 10/27/04 and an FCE on 5/25/04.

### Requested Services

Lumbar discogram with post CT scan L2-S1.

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

#### *Documents Submitted by Requestor:*

1. No documents submitted

#### *Documents Submitted by Respondent:*

1. Independent Review Organization Summary 5/3/05
2. Physical Therapy Notes 1/20/04 – 4/11/05
3. MRI report 2/16/045
4. EMG/NCV report 10/27/04
5. FCE report 5/25/05

### 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 female who sustained a work related injury to her back on \_\_\_\_\_. The MAXIMUS physician reviewer also noted that the current diagnoses for this patient include lumbar radiculopathy, lumbar bulging discs, and insomnia secondary to chronic pain. The MAXIMUS physician reviewer further noted that treatment for this patient's condition has included physical therapy, work conditioning, work hardening, injections, TENS unit, TLSO, and medications and that a lumbar discogram with post CT scan at the L2-S1 levels has been requested for this patient. The MAXIMUS physician reviewer indicated that this patient has evidence of chronic degenerative changes in her lumbar spine at multiple levels in addition to musculoskeletal disorders related to her neck and back pain. The MAXIMUS physician reviewer explained that this patient is not a surgical candidate due to the multiple levels of degeneration. The MAXIMUS physician reviewer also explained that the surgical outcome for patients with multiple levels of myofascial pain is very poor. The MAXIMUS physician reviewer further explained that discograms are routinely performed in patients who are considered surgical candidates. The MAXIMUS physician reviewer indicated that this patient is not a surgical candidate. Therefore, the MAXIMUS physician consultant concluded that the requested lumbar discogram with post CT scan at the L2-S1 levels 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 27<sup>th</sup> day of June 2005

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