

August 2, 2005

VIA FACSIMILE

San Antonio Spine & Rehabilitation
Attention: Lori

VIA FACSIMILE

Texas Mutual Insurance Company
Attention: Ron Nesbitt

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-05-1913-01
TWCC #:
Injured Employee:
Requestor: San Antonio Spine & Rehabilitation
Respondent: Texas Mutual Insurance Company
MAXIMUS Case #: TW05-0126

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 chiropractor on the MAXIMUS external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The MAXIMUS chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor 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 chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 54-year old male who sustained a work related injury to his back on _____. The patient reported he injured his back while picking up a bag of salt and he felt a pop in his back. The patient also reported he felt tingling in his left leg. The patient reported he since has experienced frequent falls with injury to his right knee as a result. The diagnoses for this patient include facet syndrome, myofascial pain syndrome, radiculitis, displacement of lumbar intervertebral disc, and right knee strain. He has been treated with medications, active and passive therapy. Lumbar discogram at L4-5 and L5-S1 was recommended.

Requested Services

Lumbar discogram at L4-5 and L5-S1.

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

Documents Submitted by Requestor:

1. None

Documents Submitted by Respondent:

1. Case Summary dated 6/15/05
2. Denial determination dated 5/16/05, 5/25/05
3. Reconsideration for Lumbar Spine Discogram dated 5/20/05
4. Initial Evaluation dated 1/20/05, 2/7/05, 5/16/05
5. Subsequent Evaluation dated 2/9/05, 2/16/05, 3/2/05, 3/4/05, 3/11/05, 3/21/04, 4/4/05, 4/12/05, 4/14/05, 5/1/05, 5/11/05
6. Pain Management Consultation dated 3/16/05
7. Clinic Encounter Notes dated 12/9/04, 12/30/04
8. MRI Lumbar Spine without contract dated 12/8/04
9. Orthopaedic review of information dated 4/27/05

Decision

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

Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that according to the American Society of Interventional Pain Physicians, a discogram may be used to test for discogenic pain provided there is a prior history, physical examination, imaging data, and analysis of other diagnostic techniques. The MAXIMUS chiropractor reviewer explained that according to the records, the patient has undergone an MRI and EMG/nerve conduction studies that did not conclusively find the pain generator in the patient's low back. The MAXIMUS chiropractor reviewer also explained that since the patient's history and previous testing is strong evidence of discogenic pain, the discogram should be medically necessary to rule in or rule out that the L4-5, or L5-S1 discs are the cause of the pain being generated in this patient. American Society of Interventional Pain Physicians. *Interventional techniques in the management of chronic spinal pain*. 2003)

Therefore, the MAXIMUS chiropractor consultant concluded that the requested Lumbar discogram at L4-5 and L5-S1 is 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

Lisa Gebbie, MS, RN
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 2nd day of August 2005.

Signature of IRO Employee: _____
External Appeals Department