

August 8, 2005

VIA FACSIMILE

Ms. Wisteria Hutchenson  
City of Houston c/o Harris & Harris

**NOTICE OF INDEPENDENT REVIEW DECISION – CORRECTED DECISION (8/9/05)**

**RE: MDR Tracking #: M2-05-1985-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor:**  
**Respondent: City of Houston c/o Harris & Harris**  
**MAXIMUS Case #: TW05-0140**

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 41 year-old female who sustained a work related injury to her back on \_\_\_\_\_. A MRI of the patient's lumbar spine performed on 8/16/04 revealed minimal degenerative changes of the right facet joint at the L4-5 level, a probable tiny annular tear at the L5-S1 level with slight disc bulging and findings at T2 that were suspicious for a small disc fragment. Diagnoses for this patient's condition have included degenerative disc disease, disc herniation at L5-S1, and low-grade chronic back and leg symptoms. Treatment for the patient's condition has included medications, home exercises, weight loss, and epidural steroid injections.

### Requested Services

Repeat lumbar MRI and lumbar discogram with CT scan..

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

#### *Documents Submitted by Requestor:*

1. None submitted

#### *Documents Submitted by Respondent:*

1. MRI reports dated 8/23/01 and 8/16/04
2. CT report dated 6/2/02
3. X-ray report dated 8/16/04
4. Report from a functional capacity examination performed on 9/29/03
5. Spinal surgery consultation report dated 10/18/01 and follow-up records from 12/21/01 to 9/27/04
6. Orthopedic surgeon's letters dated 10/6/04 and 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 41 year-old male who sustained work related injury to her back on \_\_\_\_\_. The MAXIMUS physician reviewer indicated that this patient has long-standing degenerative disc disease at L5-S1, as demonstrated by the 2 MRIs. The MAXIMUS physician reviewer also indicated that there was a small disc protrusion, which is common with disc herniation. The MAXIMUS physician reviewer explained that there is no need for a discogram in this case. The MAXIMUS physician review also explained that there is no need for a repeat MRI at this time. The MAXIMUS physician reviewer indicated that there is known degeneration at L5-S1. The MAXIMUS physician reviewer noted that the patient's pain improves with weight loss and that therefore, conservative measures are appropriate at this time. Therefore, the MAXIMUS physician consultant concluded that a repeat MRI and lumbar discogram with CT scan are 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**

Lisa K. Maguire, Esq.  
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 9<sup>th</sup> day of August 2005.

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