

August 25, 2005

VIA FACSIMILE
John Sazy, MD
Attn: Kristi Songer

VIA FACSIMILE
Texas Mutual
Attn: Latreace E. Giles

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-05-2165-01
TWCC #:
Injured Employee:
Requestor: John Sazy, MD
Respondent: Texas Mutual Insurance Company
MAXIMUS Case #: TW05-0170

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 49-year old male who sustained a work related injury on _____. The patient reported that while pulling wire he noted a stabbing pain in his lower back that worsened over a week's time to include left leg pain and numbness. He was diagnosed with lumbago. Treatment has included epidural steroid injections, chiropractic care, stretching exercises, and oral medications.

Requested Services

Preauthorization request for discogram at L3-4, L4-5, L5-S1

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

Documents Submitted by Requestor:

1. Office Records – 10/11/03-4/28/05
2. Operative Reports – 12/16/05, 1/20/05, 2/17/05
3. MRIs of lumbar spine – 10/11/03, 6/7/04

Documents Submitted by Respondent:

1. MRI of the lumbar spine – 6/7/04
2. Follow-up Reports – 11/11/04-3/3/05
3. Designated Doctor Examination – 5/5/05
4. Clarification letter – 7/12/05

Decision

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

Rationale/Basis for Decision

The MAXIMUS physician consultant explained that the patient sustained a work related injury on _____. The MAXIMUS physician consultant indicated an MRI on 6/7/04 revealed no disc herniation, no canal stenosis, no foraminal encroachment at L1-2 and disc protrusion with neuro-foraminal narrowing at L2-3, L3 and mild central canal stenosis at L4-5. The MAXIMUS physician consultant noted a previous MRI dated 10/11/03 reported an L3-4 disc protrusion with effacement of the thecal sac and L4-5 central disc protrusion. The MAXIMUS physician consultant also noted lumbar epidural injections and facet joint injections were not helpful and did not improve the patient's symptoms. The MAXIMUS physician consultant indicated a discogram was recommended. The MAXIMUS physician consultant noted an examination on 2/3/05 revealed mild spasm on palpation of the lumbar paraspinal muscles, tenderness and palpation of the low lumbar facet joint areas. The MAXIMUS physician consultant also noted this examination also revealed mild tenderness on palpation of piriformis and sacroiliac joints, and lumbar joint movement exacerbated his pain. The MAXIMUS CHDR physician consultant explained that an examination by a designated doctor reported that the physical examination was inconsistent with neurological disease and that maximum medical improvement had been reached. The MAXIMUS physician consultant explained that this doctor also reported he would not suggest surgery or any additional diagnostic evaluations. The MAXIMUS physician consultant also explained that additional diagnostic studies, such as the requested discogram, are not likely to provide additional benefit to the evaluation and treatment of the patient's condition at this time.

Therefore, the MAXIMUS physician consultant concluded that the requested preauthorization request for discogram at L3-4, L4-5, L5-S1 is not medically necessary for treatment of this patient's condition.

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 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 25th day of August 2005.

Signature of IRO Employee: _____
External Appeals Department