

November 11, 2005
October 25, 2005

VIA FACSIMILE:
JC Penney Corp Inc/Liberty Mutual
Attention: Carolyn Guard

AMENDED NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-0092-01
TWCC #: ____
Injured Employee: ____
Requestor: ____
Respondent: JC Penney Corp Inc/Liberty Mutual
MAXIMUS Case #: TW05-0210

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Division of Texas Worker's Compensation (DWC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. DWC 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 who is board certified in orthopedic surgery on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the approved doctor list (ADL) of DWC or has been approved as an exception to the ADL requirement. A certification was signed that the reviewing provider has no known conflicts of interest between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO, was signed. 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 60-year old female who sustained a work related injury on _____. The patient reported that she fell over a cart in a stockroom onto her buttocks and then fell back striking the back of her head on the floor. She also reported that she had the immediate onset of low back pain. Diagnoses have included a herniated/ruptured disc at L5-S1, myofascial pain syndrome and chronic lower back pain with radiculopathy. Evaluation and treatment have included CT scan, lumbar discogram and medication.

Requested Services

Bilateral decompressive laminectomy & discectomy, posterior lumbar interbody fusion (P.L.I.F.) L5-S1, internal fixation with cages, instrumentation with screws-rods, lateral fusion.

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

Documents Submitted by Requestor:

1. Letter from Injured Employee – 8/26/05
2. Intracorp Physician Reviews – 8/16/05, 9/9/05

Documents Submitted by Respondent:

1. Intracorp Physician Reviews – 8/16/05, 9/9/05
2. Determination Letters – 8/17/05, 9/9/05
3. Pre Certification Requests – 8/10/05, 9/1/05
4. Letter from Injured Employee – 8/26/05
5. Neurosurgery Records – 11/26/03, 4/12/05, 8/25/05
6. CT Scan – 6/22/05
7. Operative Report – 6/22/05
8. Pain Management Records – 5/16/05

Decision

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

Standard of Review

This MAXIMUS determination is based upon generally accepted standard and medical literature regarding the condition and services/supplies in the appeal.

Rationale/Basis for Decision

The MAXIMUS physician consultant indicated this patient sustained a work related injury back in ___ when she fell. The MAXIMUS physician consultant noted she has chronic back pain and has been given a diagnosis of myofascial pain syndrome. The MAXIMUS physician consultant explained she had a lumbar MRI on 6/19/02 that was normal. The MAXIMUS physician consultant indicated she had a discogram that caused pain at both the L4-L5 and L5-S1 levels. The MAXIMUS physician consultant noted there is no medical justification for a posterior lumbar interbody fusion (P.L.I.F.) at L5-S1. The MAXIMUS physician consultant explained that the MRI and discogram do not support the indications for the requested operation. The MAXIMUS physician consultant also explained that the requested procedure is not likely to be effective in reducing the patient's back pain and leg symptoms. The MAXIMUS physician consultant noted there is no indication for the requested fusion and decompression surgery requested by this patient. (Gibson JN, et al. Surgery for degenerative lumbar spondylosis: updated Cochrane Review. Spine. 2005 Oct 15; 30(20): 2312-20)

Therefore, the MAXIMUS physician consultant concluded that the requested bilateral decompressive laminectomy & discectomy, posterior lumbar interbody fusion (P.L.I.F.) L5-S1, internal fixation with cages, instrumentation with screws-rods, and lateral fusion is not medically necessary for treatment of this patient's condition.

Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

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 October 2005.

Signature of IRO Employee: _____
External Appeals Department