

November 8, 2005
November 4, 2005

VIA FACSIMILE
Downs and Stanford, PC
Attention: W. Jon Grove

AMENDED NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-0153-01
DWC #: _____
Injured Employee: _____
Requestor: _____
Respondent: Downs and Stanford PC
MAXIMUS Case #: TW05-0218

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. The TDI, Division of Workers Compensation (DWC) has assigned this case to MAXIMUS in accordance with Rule §133.308 which allows for a dispute resolution by an IRO.

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 an adult male who sustained a work related injury on _____. The patient reported that he sustained a work related injury when bending for an extended period of time while installing an air conditioning system. He also reported that he has had severe pain in the lower back. Evaluation and treatment have included MRI, surgery, trigger point injections and medications. Diagnoses have included herniated disc, degenerative disc disease, bilateral leg pain and neuroforaminal stenosis.

Requested Services

Lumbar discogram L3-4 and L4-5/CT scan.

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

Documents Submitted by Requestor:

1. Procedure Notes – 2/14/05, 9/19/05
2. Progress Notes – 3/22/05, 4/19/05, 5/20/05, 9/19/05
3. Case Management notes – 3/21/05
4. Radiology Reports – 2/14/05

Documents Submitted by Respondent:

1. Carrier's Position – 10/28/05
2. Radiology Reports – 3/26/99, 1/31/00
3. Consultation – 6/25/99
4. Impairment Rating – 5/13/98
5. Discharge Summary – 2/27/99
6. Denial Determinations - 4/29/05, 8/29/05

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 that this patient has had multiple lumbar surgeries that have include L5-S1 fusion and L4-5 decompression. The MAXIMUS physician consultant noted he has no evidence of instability on flexion/extension radiographs. The MAXIMUS physician consultant explained that the likelihood of additional surgery helping his condition is minimal. The MAXIMUS physician consultant also indicated the patient had hardware removed without success. The MAXIMUS physician consultant noted that any additional back surgery is not likely to be successful at this point in his care. The MAXIMUS physician consultant explained that the patient's condition should be appropriately managed with non-operative measures such as physical therapy and pain management. The MAXIMUS physician consultant also explained that the diagnosis is failed surgical back pain and a discogram is only indicated if additional surgery is being considered. The MAXIMUS physician consultant indicated that otherwise a discogram has no added value to this member's treatment. (Gibson J, Waddell G, Gibson JA. Surgery for degenerative lumbar spondylosis. Cochrane Database Syst Rev. 2005 Oct 19;(4):CD001352.)

Therefore, the MAXIMUS physician consultant concluded that the proposed lumbar discogram L3-4 and L4-5/CT scan is not medically necessary for treatment of the member'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: Division of Workers Compensation

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 4th day of November 2005.

Signature of IRO Employee: _____
External Appeals Department