

November 10, 2005

VIA FACSIMILE  
Positive Pain Management  
Attention: Kelly Bates

VIA FACSIMILE  
State Farm Fire & Casualty Company / Parker & Associates  
Attention: William Weldon

### **NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M2-06-0241-01**  
**DWC #:**  
**Injured Employee:**  
**Requestor: Positive Pain Management**  
**Respondent: State Farm Fire & Casualty Company / Parker & Associates**  
**MAXIMUS Case #: TW05-0221**

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 anesthesiology 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 61-year old male who sustained a work related injury on \_\_\_\_\_. The patient reported that while working as a baker, he slipped and fell on a soapy floor as he was holding a large hot tray. He reported that he felt immediate pain. Evaluation and treatment have included surgery, medication, injections, x-rays, EMG/nerve conduction studies, CT scan, discogram, myelogram, MRI's, physical therapy, aqua therapy, rehabilitation, biofeedback, individual counseling, a TENS unit and other passive modalities. Diagnoses have included status post lumbar fusion, lumbosacral neuritis/radiculitis, cervical pain/cervicalgia, displacement of cervical

Intervertebral disc without myelopathy, depressive disorder, and pain disorders related to psychological factors.

### Requested Services

20-day pain management program.

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

#### *Documents Submitted by Requestor:*

1. Psychological Evaluation Report – 8/31/05
2. Pain Management Records – 3/23/05-6/29/05
3. Treatment Plan – 8/31/05
4. Correct Care Clinic Records – 8/31/05
5. Physical Performance Evaluation – 8/31/05

#### *Documents Submitted by Respondent:*

1. Carrier's Position – 11/2/05
2. Pain Management Records – 1/31/00-9/21/05
3. Physical Performance Tests – 3/22/05, 8/31/05
4. Psychiatric/Psychological Evaluation Reports – 7/13/04, 10/14/04, 8/31/05
5. Medications Follow-ups Reports – 4/8/03-3/22/04
6. Operative Reports – 3/29/00, 5/31/00, 3/14/01, 9/6/02

### Decision

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

### 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 the member is a 61-year old male who sustained a work related injury on \_\_\_\_\_. The MAXIMUS physician consultant noted he slipped on the floor injuring his lower back. The MAXIMUS physician consultant explained that evaluation and treatment have included medical therapy, surgery, epidural steroid injections (7), physical therapy, aqua therapy, rehabilitation, biofeedback, use of a transcutaneous electrical nerve stimulator (TENS) unit and individual counseling. The MAXIMUS physician consultant also indicated his diagnoses included status post lumbar fusion, lumbosacral neuritis/radiculitis, cervical pain/cervicalgia, displacement of cervical intervertebral disc without myelopathy, and depressive disorder. The MAXIMUS physician consultant noted he has been under the care of a plan management specialist and underwent full psychological assessment. The MAXIMUS

physician consultant explained that he is presently considered an optimal candidate for a chronic pain management program. The MAXIMUS physician consultant indicated the member has a chronic pain condition and has tried and failed conservative and interventional modalities. The MAXIMUS physician consultant noted he continues with significant daily pain rated from 5-8 on a scale with 10 being the worse. The MAXIMUS physician consultant explained he is presently maintained on Oxycontin, Morphine, Soma, Xanax and Paxil. The MAXIMUS physician consultant also indicated that in addition to his chronic pain condition, he has developed a significant depression. The MAXIMUS physician consultant noted the member should incorporate a multidisciplinary approach to pain control. The MAXIMUS physician consultant explained that he would benefit from psychotherapy, cognitive behavioral therapy and increased attempts to maximize his functional capacity. The MAXIMUS physician consultant indicated that despite his enrollment in a chronic pain program in 1996, another attempt should be taken to improve the patient's present level of pain.

Therefore, the MAXIMUS physician consultant concluded that the proposed 20-day pain management program is 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 10th day of November 2005.

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