

March 15, 2006

VIA FACSIMILE
Robert J. Henderson, MD
Attention: Amada S

VIA FACSIMILE
American Home Assurance/ARCFI
Attention: Raina Robinson

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-0840-01
DWC #:
Injured Employee:
Requestor: Robert J. Henderson, MD
Respondent: American Home Assurance/ARCFI
MAXIMUS Case #: TW06-0033

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 female who sustained a work related injury on _____. The patient reported that while moving a register, the register fell on her hitting her right side of the body. Diagnoses included contusions of head/neck/shoulder, neck pain, cervical/lumbar sprain/strain, bilateral lumbar paraspinal muscle spasms, closed lumbar dislocation, cervical intervertebral disc with myelopathy and disorders of bursae and tendons in shoulder region, spondylosis at L4-5, L5-S1, stenosis instability at L4-L5, and S1 radiculopathy. Evaluation and treatment have

included MRIs, CT scans, myelograms, range of motion/muscle testing, medications and physical therapy.

Requested Services

Preauthorization for anterior interbody fusion L4-L5; additional level L5-S1, retroperitoneal exposure and discectomy L4-L5; additional level L5-S1, anterior interbody fixation L4-L5; additional level L5-S1, posterior decompression L4-L5; additional level L5-S1, transverse process fusion L4-L5; additional level L5-S1, posterior internal fixation L4-S1, bone graft, allograft, bone graft, autograft in situ, bone graft, autograft, Iliac crest, bone marrow aspirate.

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

Documents Submitted by Requestor:

1. Request for Preauthorization for Surgery – 1/3/06
2. Dallas Spine Care Records – 2/14/05-12/12/05
3. Diagnostic Studies (i.e., MRIs, electrodiagnostic studies, etc.) – 5/23/02, 3/29/04, 5/25/04

Documents Submitted by Respondent:

1. Determination Notices – 1/6/06, 1/17/06
2. References for Screening Criteria – not dated
3. State Office of Administrative Hearings Decision and Order – 8/29/05
4. Employer's First Report of Injury – _____
5. Diagnostic Studies (i.e., X-rays, MRIs, electrodiagnostic studies, etc.) – 2/10/03, 5/23/03, 7/22/03, 3/29/04, 5/25/04
6. Occupational Therapy Records – 2/10/03
7. Chiropractic Records – 2/13/03-7/20/05
8. Medical Consultation/Evaluations – 2/19/03, 10/30/03, 1/8/04, 5/6/04, 6/3/04, 7/1/04, 8/24/04, 9/9/04, 10/19/04, 11/18/04, 5/6/05, 8/18/05
9. Physical Performance Evaluations – 4/1/03, 5/7/03, 6/18/03, 8/7/03, 8/18/04, 4/21/05
10. Orthopedic Record – 7/1/03
11. Required Medical Evaluation – 9/2/03
12. Functional Capacity Evaluations – 10/17/03, 12/19/03
13. Designated Doctor Evaluation – 10/24/03
14. Independent Medical Evaluation – 12/23/03
15. Behavioral Health Records – 1/15/04
16. Neurology Records – 3/24/04, 3/25/04
17. Chronic Pain Management Records – 10/6/04
18. Dallas Spine Care Records – 2/14/05, 4/4/05
19. Physical Therapy/SOAP Notes/Chronic Pain Management Notes - 2/10/03-4/26/05

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 the patient has multiple complaints of the neck, back and shoulder regions. The MAXIMUS physician consultant explained she has documented lumbar degenerative disc disease. The MAXIMUS physician consultant noted that her work related injury occurred 3 years ago. The MAXIMUS physician consultant also explained that at this point she is not likely to improve with surgery. The MAXIMUS physician consultant indicated that the literature does not support fusion surgery for treatment of this patient's condition. The MAXIMUS physician consultant noted that the success of fusion surgery in the lumbar spine with multi-level degeneration and an injury greater than 2 years are very poor. The MAXIMUS physician consultant also noted there is no evidence of spine instability. The MAXIMUS physician consultant indicated that the requested procedure is not likely to relieve the patient's back pain which is only part of her complaint. (Gibson, et al. Cochrane Review for Surgery in Lumbar Spondylosis; Spine 2005.)

Therefore, the MAXIMUS physician consultant concluded that the requested preauthorization for anterior interbody fusion L4-L5; additional level L5-S1, retroperitoneal exposure and discectomy L4-L5; additional level L5-S1, anterior interbody fixation L4-L5; additional level L5-S1, posterior decompression L4-L5; additional level L5-S1, transverse process fusion L4-L5; additional level L5-S1, posterior internal fixation L4-S1, bone graft, allograft, bone graft, autograft in situ, bone graft, autograft, Iliac crest, bone marrow aspirate are 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 15th day of March 2006.

Signature of IRO Employee: _____
External Appeals Department