

March 28, 2006

VIA FACSIMILE

Ace/Esis

Attention: Tiffany Mace

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-0897-01

DWC #:

Injured Employee:

Requestor:

Respondent: Ace/Esis

MAXIMUS Case #: TW06-0040

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 while moving a propane tank he was painting, he experienced pain in his back and radiating down his left leg, greater than the right leg. Diagnoses included lumbar disc disease, lumbar radiculopathy, lumbar disc protrusion, post laminectomy syndrome, and epidural adhesions. Evaluation and treatment have included medications, diagnostic studies, physical therapy, and injections.

Requested Services

Preauthorization for fusion at L-4 through S-1, hemilaminectomy L-3 and L-4, hemilaminectomy L1-L2.

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

Documents Submitted by Requestor:

1. Diagnostic Studies (e.g., myelogram, CT scan, etc.) – 4/27/05, 4/28/05, 12/29/05
2. Correspondence and Records from Kyle L. Scarborough, MD – 12/12/05-3/7/06
3. Designated Doctor Examination – 1/23/06

Documents Submitted by Respondent:

1. Determination Notices – 8/18/05, 11/30/05, 1/27/06, 2/14/06
2. Functional Abilities Evaluation – 10/24/05, 1/23/06
3. Sadler Clinic Records – 5/5/05-1/19/06
4. Designated Doctor Examination – 1/9/05, 10/24/05, 1/23/06
5. Diagnostic Studies (e.g., myelogram, CT scan, MRI, etc) – 4/27/05, 4/28/05, 12/29/05
6. Pain Medicine Records – 5/13/05, 6/14/05, 7/19/05, 9/8/05, 9/22/05, 10/20/05, 11/14/05, 1/9/06
7. Anesthesia Records – 6/10/05, 6/11/05
8. Norman J. Torres, MD Record – 11/10/05
9. Peter M. Shedden, MD Record – 8/2/05
10. Rehabilitation Notes – 5/9/05-9/14/05
11. Independent Medical Evaluation – 9/7/05
12. Howard L. Crockett, MD Records – 4/27/05
13. Emergency Room Record – 4/18/05

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 medical and scientific literature does not support the requested procedure for this patient's condition. The MAXIMUS physician consultant explained that the literature does not support fusion surgery for multiple levels of degenerative disc disease, which is the case with this patient. The MAXIMUS physician consultant noted that the fusion surgery is not likely to be successful in this case. (Gibson JN, Waddell G. 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 preauthorization for fusion at L-4 through S-1, hemilaminectomy L-3 and L-4, hemilaminectomy L1-L2 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 28th day of March 2006.

Signature of IRO Employee: _____
External Appeals Department