

April 13, 2006

VIA FACSIMILE

Continental Casualty Company/Downs & Stanford

Attention: John Fundis

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-1041-01

DWC #:

Injured Employee:

Requestor:

Respondent: Continental Casualty Company/Downs & Stanford

MAXIMUS Case #: TW06-0053

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 chiropractor on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. This case was also reviewed by a practicing chiropractor 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 have been approved as an exception to the ADL requirement. A certification was signed that the reviewing chiropractic 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 chiropractic 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 walking she slipped on a slippery spot on the floor and landed on her right buttock area and hitting her head on the concrete floor. She also reported losing consciousness for 1-2 minutes. Evaluation and treatment have included MRIs, a whole body scan, x-rays, physical therapy and medications. Diagnoses have included degenerative disc disease, and lumbar spondylosis.

Requested Services

Preauthorization for work hardening 97975 Work hardening add on 97546 5XWK X 4 WKS + 20 days

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

Documents Submitted by Requestor:

1. None submitted

Documents Submitted by Respondent:

1. Determination Notices – 1/12/06, 2/13/06
2. Peer Review and Findings – 5/22/02, 2/1/03, 4/25/05
3. Diagnostic Studies (e.g., MRI, x-rays, etc.) – 5/5/00, 7/25/01, 9/12/01, 2/20/02, 5/3/02, 5/29/03, 11/8/04
4. Independent Medical Evaluation – 12/6/00
5. Isometric Strength Assessment – 12/6/00
6. Disability Evaluation Center Evaluation - 5/21/03, 9/24/03
7. Designated Doctor Evaluation – 7/20/00, 1/11/01, 6/19/02
8. Gerald Hill, MD Correspondence – 4/24/03
9. Chiropractic Records and Correspondence
10. Luiz Cesar, MD Records – 9/21/01, 10/10/01
11. William M. Banister, MD Records – 3/25/03
12. AJ Bisson, MD Records – 2/2/03
13. Grace L. Stringfellow, MD Records – 5/24/00, 1/25/01, 9/24/01
14. Walter Piskun, MD Records – 7/17/01
15. Brendan C. Albracht, DO Records – 1/7/02
16. Don Leon Fong, MD Records and Correspondence – 4/6/00-5/4/05
17. Carl Smith, MD Records – 1/23/02-7/9/04

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 chiropractor consultant indicated that in the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place

the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop.” The MAXIMUS chiropractic consultant noted that in its report to the legislature, the Research and Oversight Council on Texas Workers’ Compensation explained its higher costs compared to other health care delivery systems by stating, “Additional differences between Texas workers’ compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers’ compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)” The MAXIMUS chiropractic consultant explained that in this case, the provider’s proposed work hardening program is just the type of questionable services of which the TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs. The MAXIMUS chiropractic consultant indicated that current medical literature states, “...there is no strong evidence for the effectiveness of supervised training as compared to home exercises”. The MAXIMUS chiropractic consultant noted there is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care. The MAXIMUS chiropractic consultant explained the literature further states “...that there appears to be little scientific evidence for the effectiveness of multidisciplinary biopsychosocial rehabilitation compared with other rehabilitation facilities...” The MAXIMUS chiropractic consultant also explained that a systematic review of the literature for a multidisciplinary approach to chronic pain found only 2 controlled trials of approximately 100 patients with no difference found at 12-month and 24-month follow-up when multidisciplinary team approach was compared with traditional care. The MAXIMUS chiropractic consultant indicated that based on those studies, and the complete and total absence of documentation for the proposed work hardening program, its medical necessity is without any support whatsoever. (26 Tex. Reg. 9874 (2001), “Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers’ Compensation System,” Research and Oversight Council on Workers’ Compensation, Report to the 77th Legislature, page 6, Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18, Karjalainen K, Malmivaara A, van Tulder M, Roine R, Jauhiainen M, Hurri H, Koes B. Multidisciplinary biopsychosocial rehabilitation for neck and shoulder pain among working age adults. Cochrane Database Syst Rev. 2003;(2):CD002194, Karjalainen K, et al. Multidisciplinary rehabilitation for fibromyalgia and musculoskeletal pain in working age adults. Cochrane Database of Systematic Reviews 2000;2.)

Therefore, the MAXIMUS physician consultant concluded that the requested work hardening 97975 Work hardening add on 97546 5XWK X 4 WKS + 20 days 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 13th day of April 2006.

Signature of IRO Employee: _____
External Appeals Department