

May 24, 2006

VIA FACSIMILE

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Attention:

**NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M2-06-1043-01**  
**DWC #:**  
**Injured Employee: \_\_\_\_**  
**Requestor: \_\_\_\_**  
**Respondent: Dallas Area Rapid Transit/ESIS**  
**MAXIMUS Case #: TW06-0077**

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 physical medicine and rehabilitation 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 had a work related injury on \_\_\_\_\_. The patient reported he had an automobile accident while driving a bus. He also reported that since that time he has neck stiffness, headaches and low back pain and left leg numbness. Diagnoses included cervical and lumbar sprain, and cervical and radicular syndrome, recurrent. Evaluation and treatment have included medication and physical therapy.

Requested Services

Preauthorization for physical therapy 2-3 x wk for 2-4 wks CPT Code 97530, 97110, 97035, 97112

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

*Documents Submitted by Requestor:*

1. Denial Determinations – 12/21/05, 1/23/06
2. Correspondence from Injured Worker – 3/6/06
3. Texas Back Institute Records and Correspondence – 11/14/05-12/28/05

*Documents Submitted by Respondent:*

1. Denial Determinations – 1/23/06,
2. Texas Back Institute Records and Correspondence – 8/15/05-12/28/05
3. Retrospective Peer Review – 12/6/05
4. Report of Medical Evaluation – 12/20/05
5. DW Marlo, DC Records – not dated

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 that this case concerns a 62-year old male who sustained a work related injury resulting in neck and low back pain. The MAXIMUS physician consultant noted he received conservative care including physical therapy (active/passive modalities) and then returned to work. The MAXIMUS physician consultant indicated he experienced a recurrence of the same symptoms after returning to work. The MAXIMUS physician consultant also noted he was seen by his treating provider on 11/19/05 and was noted to have increased symptoms of the right neck, low back pain, and left leg. MAXIMUS physician consultant explained neurologic examination revealed no neurologic deficit and physical therapy was recommended. The MAXIMUS physician consultant also indicated he was seen by his treating provider again on 12/28/05 where he again was noted to have tenderness and spasms on the both sides of his neck but no neurologic deficits. The MAXIMUS physician consultant noted that physical therapy was recommended for treatment of flare up, to reduce symptoms and to avoid more invasive treatment. The MAXIMUS physician consultant indicated the member has an independent medical examination on 12/20/05 and was noted to have limited range of motion in the lumbar/cervical spine and in the arm, but no neurologic deficits. The MAXIMUS physician consultant also noted that the treating provider's physical therapy referral does not clarify the type of physical therapy was expected or whether passive therapy, such as massage, myofascial release, heat, electrical stimulation ultrasound, active physical therapy with exercises. The MAXIMUS physician consultant explained that the member's flareup of his condition could be effectively treated using analgesia, passive modalities (heat/ice) at home with a continuing home exercise program. The MAXIMUS

physician consultant indicated that treatment of low back pain with routine physiotherapy is as effective as one general advise and assessment session. The MAXIMUS physician consultant also noted that extended physical therapy may be only marginally better than brief physical therapy intervention for neck pain as this patient has already has reasonable physical therapy treatment in the past. (Frost H, et al. Randomized controlled trial of physiotherapy compared with advice for low back pain. BMJ. 2004 Sep 25; 329(7468): 708. Epub 2004 Sep 17. Moffett JA, et al. BMJ. 2005 Jan 8:330.)

Therefore, the MAXIMUS physician consultant concluded that the requested preauthorization for physical therapy 2-3 x wk for 2-4 wks CPT Code 97530, 97110, 97035, 97112 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

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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 24th day of May 2006.

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