

April 27, 2006

VIA FACSIMILE

ACE American Insurance Company 15/Valero Energy/FOL

Attention: Katie Foster

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-1145-01

DWC #: _____

Injured Employee: _____

Requestor: _____

Respondent: ACE American Insurance Company 15/Valero Energy/FOL

MAXIMUS Case #: TW06-0064

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 a 63-year old male who had a work related injury on _____. Records indicate that the member works as a maintenance mechanic/boil worker and injured himself during a storm. The mechanism of injury was not described in the available records. Diagnoses included spinal stenosis with bulging disc, lumbar radicular syndrome and low back and leg pain. Evaluation and treatment has included medications, an MRI scan, a CT melogram, and x-rays.

Requested Services

Lumbar decompression L3-4.

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

Documents Submitted by Requestor:

1. Memorial-Hermann Baptist Hospital Records – 1/18/05, 2/15/06
2. Neurosurgical Records and Correspondence – 12/5/05-2/15/06
3. Diagnostic Studies (e.g., x-rays, MRI, post myelography and lumbar spine computed tomography) – 12/16/05, 1/31/06, 2/1/06
4. Review Determinations – 1/24/06, 1/25/06, 2/23/06, 2/28/06, 3/1/06

Documents Submitted by Respondent:

1. Carrier's Position Statement – 3/31/06
2. Review Determinations – 2/15/06, 3/1/06
3. Summary of Carrier's Position – 4/7/06
4. Diagnostic Studies (e.g., x-rays, MRI, post myelography and lumbar spine computed tomography) – 12/16/05, 1/31/06, 2/1/06
5. Records from Charles B. Clark III, MD – 2/15/06
6. Peer Review Report – 2/23/06
7. Determination Notifications – 2/24/06, 3/1/06
8. Neurological Follow-up Record – 2/8/06

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 there is insufficient evidence for L3-4 laminectomy. The MAXIMUS physician consultant noted the imaging studies do not demonstrate significant stenosis at L3-4 that correlates with the patient's bilateral leg pain. The MAXIMUS physician consultant also noted the patient already had laminectomy at L5. The MAXIMUS physician consultant explained the back pain is not likely to get better with L3-4 laminectomy surgery. The MAXIMUS physician consultant indicated L4-5 is the worst level on the CT myelogram. The MAXIMUS physician consultant also indicated that surgery at L3-4 is not likely to be successful. The MAXIMUS physician consultant noted that the literature does not support a lumbar decompression of L3-4 in this case. (van Tulder MW, et al. Outcome of invasive treatment modalities on back pain and sciatica: an evidence-based review. Eur Spine J. 2006 Jan; 15 Suppl 1:S82-92. Epub 2005 Dec 1.)

Therefore, the MAXIMUS physician consultant concluded that the requested Lumbar decompression L3-4 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 27th day of April 2006.

Signature of IRO Employee: _____
External Appeals Department