

May 4, 2006

VIA FACSIMILE  
Sid Bernstein, DO  
Attention: Doretta Spates

VIA FACSIMILE  
Lumberman's Mutual Casualty Company  
Attention: Katie Foster

### NOTICE OF INDEPENDENT REVIEW DECISION

**RE: MDR Tracking #: M2-06-1168-01**  
**DWC #:**  
**Injured Employee: \_\_\_\_**  
**Requestor: Sid Bernstein, DO**  
**Respondent: Lumberman's Mutual Casualty Company**  
**MAXIMUS Case #: TW06-0071**

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 had a work related injury on \_\_\_\_\_. Records indicate that while descending loading dock stairs, tubing got caught between his legs and he fell. He reported that while falling, he caught himself on the left side handrail with both hands but twisted himself injuring his back. Diagnoses included lumbosacral strain, lumbagia and radicular syndrome of lower extremities, disc protrusion, status post anterior discectomy and fusion at L2-3, status post L3-4 laminectomy and posterior lateral fusion with instability, depression, and

lumbar pain syndrome. Evaluation and treatment has included physical therapy, MRIs, medications, home exercises, and steroid injections.

### Requested Services

CT/Myelogram

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

#### *Documents Submitted by Requestor:*

1. Letter to MAXIMUS – 4/6/06
2. Carrier's Position Statement – 4/18/06

#### *Documents Submitted by Respondent:*

1. Diagnostic Studies (e.g., CT scans, MRIs, x-rays, etc) – 11/1/00-5/7/03
2. Texas Back Institute Records & Correspondence – 12/11/00-2/7/06
3. Required Medical Examination Reports – 5/29/01
4. Third Surgical Opinion – 6/12/01
5. Behavioral Medicine Records – 6/4/01-6/26/01
6. East Texas Medical Center Records – 11/1/00
7. Designated Doctor Evaluations – 1/19/01, 10/21/02
8. Family Practice Records & Correspondence – 11/15/99-3/19/02
9. Physical Medicine and Rehabilitation Records & Correspondence – 6/2/05
10. Orthopedic Records and Correspondence – 4/9/01-9/16/05
11. Duncanville Surgery Center Records – 9/8/04
12. MATRIX Rehabilitation Records – 12/7/01-1/16/02
13. Peer Review – 2/25/02, 4/9/02
14. \_\_\_ Correspondence – 10/11/00
15. Presbyterian Hospital of Plano Records – 8/30/01

### 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 the patient has evidence of multiple degenerative changes in the lumbar spine. The MAXIMUS physician consultant explained he has lumbar scoliosis and has had previous lumbar spine surgery. The MAXIMUS physician consultant noted that he now complains of mostly back pain. The MAXIMUS physician consultant also noted that additional surgery is not likely to be successful given his multiple levels of

degeneration and multiple previous surgeries. The MAXIMUS physician consultant indicated there is no evidence of any profound neuralgic deficits. The MAXIMUS physician consultant noted that the only reason to do a CT/myelogram is to prepare for additional surgery or non-operative intervention. The MAXIMUS physician consultant explained that the literature does not support additional interventions in this case of chronic, failed surgery and multiple procedures, and work related degenerative back pain. (van Tulder M, et al. Outcome of non-invasive treatment modalities on back pain: an evidence-based review. Eur Spine J. 2006 Jan; 15 Suppl 1:S64-81. Epub 2005 Dec 1. van Tulder M, 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 CT/Myelogram 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 4<sup>th</sup> day of May 2006.

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