June 22, 2006

VIA FACSIMILE
XL Specialty Insurance Company
Attention: Christine Karcher

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-1310-01
DWC #:
Injured Employee: ___
Requestor: ___
Respondent: XL Specialty Insurance Company
MAXIMUS Case #: TW06-0091

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 orthopedics 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 female who had a work related injury on ___. The patient reported that while working she slipped on soap and landed on her buttocks resulting in injury to her low back, left knee and neck. Diagnoses included prior fusion (L4-S1), disc bulge, spinal stenosis, myofascitis, radicuopathy and low back pain. Evaluation and treatment have included medication, chiropractic services, CT scans, and a myelogram.

Requested Services

Preauthorization for lumbar decompression L3-4, L5-S1.

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

Documents Submitted by Requestor:

1. Letter of Appeal – 6/6/06
2. Letter from Woods Chiropractic and Wellness Center – 8/18/06
3. Diagnostic Studies (i.e., CT scans, etc.) – 2/18/05
4. Westlake Orthopaedics Spine and Sports Records – 7/21/05-2/10/06
5. Review of Medical History and Physical Exam by Carl Simpson, MD – 9/16/05
6. Determination Notice – 7/28/05
7. Follow-up Evaluation – 1/27/06
8. X-rays – 2/18/05-7/14/05

Documents Submitted by Respondent:

1. Respondent Position Statement – 6/1/06
2. Determination Notice – 3/14/06, 7/28/05
3. Diagnostic Studies (i.e., CT scans, myelogram, etc.) – 2/18/05, 7/14/05
4. Report of Medical Evaluation by Carl Simpson, MD of Churchill Evaluation Centers – 9/16/05
5. Records and correspondence from Charles W. Kennedy, Jr. MD – 1/12/06
6. Records and correspondence from Maish Patel, MD – 5/16/05
7. Records from Cole Chiropractic – 1/14/05
8. Records and correspondence from Randall R. Dryer, MD – 1/27/06
9. Medical records from Westlake Orthopaedics Spine and Sports – 6/15/05-2/10/06
10. Medical records and correspondence from Central Texas Pain Institute/Ambulatory Pain Institute – 1/31/05-2/20/06
11. Medical records and correspondence from Brian Woods, DC – 1/14/05-3/20/06
12. Medical records from Healthsouth – 3/23/054/25/05
13. Medical records from unknown provider – 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 this patient has radiographic evidence of degenerative spinal stenosis at L3-L4 that is the first level above the fusion. The MAXIMUS physician consultant also noted that this is essentially adjacent segment degeneration which is the natural progression of lumbar fusion. The MAXIMUS physician consultant indicated that revision surgery for work related injuries that involve further degeneration are not usually successful. The MAXIMUS physician consultant noted the literature does not support the role

for surgery in this case. The MAXIMUS physician consultant explained that a metanalysis of the literature does not lend support to additional surgery in this case as outcomes to revision surgery after fusion surgery for back pain are poor. (Van Tudor. Outcomes of Invasive Modalities for Low Back Pain. Eup Spine J 2006.)

Therefore, the MAXIMUS physician consultant concluded that the requested preauthorization for lumbar decompression L3-4, L5-S1 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 22nd day of June 2006.

Signature of IRO Employee: _____
External Appeals Department