

November 8, 2006

VIA FACSIMILE
Brad Burdin, DC
Attention: Jessica

VIA FACSIMILE
Fidelity & Guaranty Insurance
Attention: Katie Foster

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-07-0197-01
DWC #: _____
Injured Employee: _____
Requestor: Brad Burdin, DC
Respondent: Fidelity & Guaranty Insurance
MAXIMUS Case #: TW06-0153

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 reviewers have 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 male who sustained a work related injury on _____. The case file records indicate while lifting cases of oil filters, he experienced sharp pain in his low back running down his right leg. Diagnoses have included depression, post-traumatic stress disorder, anxiety, herniated discs and radiculopathy. Treatment for this injury has included medications, injections, and therapy.

Requested Services

97140-59 (1unit x8), 97014 (1 unit x8), 97110 (2 units x8). 8 total sessions.

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

Documents Submitted by Requestor:

1. Neuromuscular Institute of Texas Records and Correspondence – 7/19/05-9/15/06
2. Morris H. Lampert, MD Records and Correspondence – 12/15/05-4/27/06
3. David M. Hirsch, DO Records and Correspondence – 8/24/05-9/26/06
4. NIT Initial Evaluation (Occupational Therapy Evaluation)– 8/25/06
5. Determination Notices – 9/1/06, 9/13/06
6. Outpatient UR Determination – 9/1/06

Documents Submitted by Respondent:

1. Outpatient UR Determination and Notice – 9/1/06, 9/13/06
2. Neuromuscular Institute of Texas Records and Correspondence – 6/21/05-9/8/06
3. David M. Hirsch, DO Records and Correspondence –8/24/06
4. NIT Initial Evaluation (Occupational Therapy Evaluation)– 8/25/06
5. Aaron L. Combs, MD Records and Correspondence – 9/13/06
6. Professional Medical Resources Records and Correspondence – 9/13/06
7. St. David's Occupational Health Services Records and Correspondence - 6/10/05
8. C&H Medical Solutions – 1/5/06
9. San Antonio Diagnostic Imaging – 5/26/06
10. Skinner Clinic Chart Notes – 6/13/05-7/21/05
11. JD Stephenson, MD Records and Correspondence – not dated
12. Morris H. Lampert, MD Records and Correspondence –5/25/05-6/9/05
13. Brian Saul, DC Records and Correspondence – 6/13/05

Decision

The Carrier's denial of authorization for the requested services is overturned.

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 the medical records submitted for review adequately revealed that a compensable injury occurred to the patient's lower back, and that as a result of that injury, the patient sustained a disc herniation with documented radiculopathy. The MAXIMUS chiropractor consultant also noted the Carrier used as its basis for the initial denial (paper review opinion, dated 9/1/06) that "Insufficient scientific testing exists to determine the effectiveness of these (massage, diathermy, cutaneous laser treatment, ultrasound, TENS, and biofeedback) therapies, but they may have some value in the short term if used in conjunction with a program of functional restoration." The MAXIMUS chiropractor consultant explained that a "short term" of these treatments was precisely what was requested. The

MAXIMUS chiropractor consultant indicated that under reconsideration, the only basis for denial that the second Carrier paper reviewer cited (opinion dated 9/13/06) was questioning the efficacy of using manipulation in the treatment of lower back pain patients, however chiropractic manipulation was not even a requested service.

Therefore, the MAXIMUS physician consultant concluded that the requested 97140-59 (1 unit x 8), 97014 (1 unit x 8), 97110 (2 units x 8) 8 total sessions is medically necessary for treatment of the patient'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 8th day of November 2006.

Signature of IRO Employee: _____
External Appeals Department