

November 30, 2006

VIA FACSIMILE
Brad Burdin, DC
Attention: Jessica

VIA FACSIMILE
Safeguard ins. Co./Cunningham Lindsey
Attention: Tom Lang

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-07-0243-01
DWC #: _____
Injured Employee: _____
Requestor: Brad Burdin, DC
Respondent: Safeguard ins. Co./Cunningham Lindsey
MAXIMUS Case #: TW06-0159

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 female who sustained a work related injury on _____. The case file records indicate that while lifting a patient, the patient fell on her and developed lower back and buttock pain. Diagnosis has included chronic radiculopathy with neuropathy. Treatment and evaluation for this injury has included injections, discogram, CT scans, lumbar surgery with fusion, medications, and physical therapy.

Requested Services

Preauthorization for physical therapy: 97140-59 X 1 unit, 97014 X 1 unit; 97035 X 1 unit, 97110 X 1 unit = 6 WS, 3X WS X2WKS. Mental Health Eval: 90801 X 1HR

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

Documents Submitted by Requestor:

1. Brad Burdin Records and Correspondence – 1/6/06-10/12/06
2. David Hirsch, DO Records and Correspondence – 2/4/06-8/29/06
3. Mark Dedmon Records and Correspondence – 8/8/06-9/7/06
4. Joseph Miller, MD Records and Correspondence – 2/27/06
5. Jerjis Denno, MD Records and Correspondence – 5/17/06
6. Wilbur Avant, MD Records and Correspondence – 3/18/03
7. Raul Pelaez, MD Records and Correspondence – 3/27/06
8. Kenneth Kist, MD Records and Correspondence – 2/27/03
9. Determination Notices – 9/14/06, 9/27/06

Documents Submitted by Respondent:

1. Determination Notices – 8/17/06, 9/14/06, 9/27/06
2. Neuromuscular Institute of Texas Records and Correspondence – 6/9/06-10/12/06
3. Michael D. Ciepiela, MD Records and Correspondence – 10/20/04, 7/11/05
4. Wayne H. Gordon, MD Records and Correspondence – 10/23/06
5. David Hirsch, DO Records and Correspondence – 8/29/06
6. Skinner Clinic David Hirsch, DO Records and Correspondence – 8/28/06

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 that the patient has had back pain since _____. The MAXIMUS physician consultant noted that additional intervention is not likely to improve this patient's chronic back pain that has been present since _____. The MAXIMUS physician consultant explained that this patient has post-fusion chronic back pain. The MAXIMUS physician consultant also explained physical therapy is not likely to help this patient at this late point in time. The MAXIMUS physician consultant indicated that the literature does not support efficacy of additional intervention. The MAXIMUS physician consultant noted that a mental health evaluation is not likely to benefit this patient's condition as there is no indication in the medical records of psychogenic symptoms or pre-existing mental health problems. The MAXIMUS physician consultant indicated that a mental health evaluation for this patient's chronic back pain is not medically necessary for treatment of her condition. (van Tulden. Outcomes of Invasive and Non-invasive treatment of low back pain. *Sur Spine J*, 2006.)

Therefore, the MAXIMUS physician consultant concluded that the preauthorization for physical therapy: 97140-59 X 1 unit, 97014 X 1 unit; 97035 X 1 unit, 97110 X 1 unit = 6 WS, 3X WS X2WKS and Mental Health Eval: 90801 X 1HR are not 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 30th day of November 2006.

Signature of IRO Employee: _____
External Appeals Department