

December 6, 2006

VIA FACSIMILE
___/Miller & Tysinger
Attention: Kathleen Arceo Garza

VIA FACSIMILE
City of San Antonio
Attention: Robert Josey

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-07-0356-01
DWC #: ___
Injured Employee: ___
Requestor: ___/Miller & Tysinger
Respondent: City of San Antonio
MAXIMUS Case #: TW06-0164

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 sustained a work related injury on ____. There is no information in the case file as to how the injury occurred. Diagnoses have included pseudoarthrosis and status post L4-5 laminectomy, interbody fusion, posteriolateral fusion, and pedicle screw instrumentation. Evaluation and treatment for this injury has included surgery, physical therapy, injections, CT scan, and medications.

Requested Services

Preauthorization for re-exploration bilateral L4-5 laminectomy, foraminotomy, explore fusion; L4-5 posterolateral fusion with posterior iliac crest bone graft, posterior lumbar interbody fusion with Brantigan cages, bone marrow harvesting autograft, 2 days length of stay.

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

Documents Submitted by Requestor:

1. Correspondence from Miller & Tysinger, dated 11/21/06
2. Neurosurgical Associates of San Antonio Correspondence and Records – 5/16/06-8/22/06

Documents Submitted by Respondent:

1. Correspondence from Harris & Harris – 11/21/06
2. DWC Pre-authorization Report & Notification form – 8/25/06, 9/8/06

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 no role for additional surgical intervention in this case of chronic low back pain that has been refractory to surgery already. The MAXIMUS physician consultant indicated that an article by van Tulder, et al. clearly demonstrates that the proposed surgical intervention is not indicated for this patient. (von 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.)

Therefore, the MAXIMUS physician consultant concluded that the preauthorization request for re-exploration bilateral L4-5 laminectomy, foraminotomy, explore fusion; L4-5 posterolateral fusion with posterior iliac crest bone graft, posterior lumbar interbody fusion with Brantigan cages, bone marrow harvesting autograft, 2 days length of stay is 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

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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 6th day of December 2006.

Signature of IRO Employee: _____
External Appeals Department