

December 12, 2006  
December 8, 2006

VIA FACSIMILE  
RS Medical  
Attention: Joe Basham

VIA FACSIMILE  
American Zurich Insurance Company  
Attention: Katie Foster

**AMENDED NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M2-07-0364-01**  
**DWC #: \_\_\_\_\_**  
**Injured Employee: \_\_\_\_\_**  
**Requestor: RS Medical**  
**Respondent: American Zurich Insurance Company**  
**MAXIMUS Case #: TW06-0168**

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 \_\_\_\_\_. The details related to the injury were not provided for review. Diagnoses have included lumbago, chronic low back pain, and muscle spasm. Evaluation and treatment for this injury has included surgery, physical therapy and pain management.

## Requested Services

Preauthorization for purchase of a RS4I 4 Channel combination unit interferential and muscle stimulator.

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

### *Documents Submitted by Requestor:*

1. RS Medical Records and Correspondence – 5/16/06-10/3/06
2. Jerry L. Franz, MD Records and Correspondence – 7/5/06, 8/1/06, 8/3/06
3. Letter from Injured Worker – 11/1/06

### *Documents Submitted by Respondent:*

1. Determination Notices – 8/14/06, 9/11/06
2. Carrier's Position Statement – 11/17/06, 12/4/06
3. Centers for Medicare & Medicaid Services Coverage Guidelines
4. ACOEM Guidelines
5. Prior Independent Review Organization Determinations

## 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 member has chronic low back pain from a work related injury. The MAXIMUS physician consultant also indicated that there is insufficient literature to support the use of the RS4I 4 channel combination unit interferential and muscle stimulator for treatment of this patient's condition. The MAXIMUS physician consultant noted that there is no class I data that exists that supports the use of this device for the member's condition. The MAXIMUS physician consultant explained that the article by van Tulder is a meta analysis of the literature and does not support the use of muscle stimulation in cases of chronic low back pain. The MAXIMUS physician consultant also explained that the stimulator is not likely to provide sufficient benefit for the treatment of the member's condition and therefore is not considered medically necessary. (van Tulder MR, 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.)

Therefore, the MAXIMUS physician consultant concluded that the preauthorization request for purchase of a RS4I 4 channel combination unit interferential and muscle stimulator 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

\_\_\_\_\_  
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 December 2006.

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