

# MAXIMUS

May 30, 2003

Texas Workers Compensation Commission  
Southfield Building, MS48  
4000 S. IH-35  
Austin, Texas 78704-7491

## NOTICE OF INDEPENDENT REVIEW DECISION

**RE: MDR Tracking #: M5-03-1897-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor:**  
**Respondent: Transcontinental Insurance**  
**MAXIMUS Case #: TW03-0232**

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

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 on the MAXIMUS external review panel. This physician is board certified in occupational medicine, preventive medicine and public health. The MAXIMUS physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. 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 a 57 year-old male who sustained a work related injury on 12/\_\_\_/94. The patient reported that while at work he was lifting a trailer tire and putting it into a pickup bed when he began experiencing low back pain. The patient was initially evaluated and treated by a chiropractor. The patient has undergone an MRI that showed posterior protrusion of disc material at L5-S1, CT Scan, Myelogram, Discogram and EMG/NV. He has been treated with therapy and chiropractic adjustments, heat and electrical stimulation. The patient has also undergone a lumbar laminectomy at L5-S1 on 7/12/95. On 7/12/96 the patient underwent bilateral lumbar laminectomy with partial facetectomy, foraminotomy, and re-exploration at L5-

S1. The patient again underwent back surgery on 3/15/99 for a diagnosis of pseudarthrosis at L5-S1. On 4/24/02 the patient underwent X-Rays of the lumbar spine.

### Requested Services

Prescriptions on 10/26/02 and 12/6/02.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The MAXIMUS physician reviewer noted that this case concerns a 57 year-old male who sustained a work related injury to his back on 12/02/94. The MAXIMUS physician reviewer also noted that the patient has been treated with multiple surgeries, physical therapy, chiropractic manipulation and medications. The MAXIMUS physician reviewer indicated that the patient has undergone numerous lumbar surgical procedures. The MAXIMUS physician reviewer explained that the evidence that fusion has taken place does not equate to the patient being pain free. The MAXIMUS physician reviewer also explained that fifteen percent of patients who undergo surgery end up with a chronic pain condition. The MAXIMUS physician reviewer further explained that chronic low back pain patients are often difficult to treat. The MAXIMUS physician reviewer indicated that the patient had increased low back pain in 10/2002 that appeared relatively acute. The MAXIMUS physician reviewer noted that the patient was prescribed a Medrol Dosepak. The MAXIMUS physician reviewer explained that the patient's treating physician has maintained that there is no evidence of abuse for the opiate or other medications including a Cox-2 specific NSAID. The MAXIMUS physician reviewer also explained that maximizing function and managing pain is usually most successful as a multidisciplinary approach that could include medication. The MAXIMUS physician reviewer further explained that pharmacological pain management may involve a variety of medications, including acetaminophen, NSAID therapy, skeletal muscle relaxants, and opiates/synthetic opiates. The MAXIMUS physician reviewer indicated that oral steroid treatment can be used for acute inflammation. The MAXIMUS physician reviewer explained that oral steroid treatment is an acceptable choice for short-term use for an inflammatory process. The MAXIMUS physician reviewer noted that the patient has some of Waddell's signs. The MAXIMUS physician reviewer indicated that Waddell's sign is not a clear indicator that a patient is malingering. However, the MAXIMUS physician reviewer explained that Waddell's sign could indicate that there are other problems that need to be explored to effectively manage this patient. The MAXIMUS physician reviewer also explained that discontinuation of pain medication is a misapplication of Waddell's principals. Therefore, the MAXIMUS physician consultant concluded that the prescriptions on 10/26/02 and 12/6/02 were medically necessary to treat this patient's condition.

(Heger S. Psychosomatic aspects of failed back syndrome: why low back pain becomes a chronic disorder. *Nervenarzt* 1999; 70(3):225 – 32. [Abstract. Article in German]. Kurtizky L. Low back pain pharmacotherapy. *Musculoskeletal Pain* (A Monograph series of the Musculoskeletal Pain Institute) May 2002. Waddell G. A new clinical model for the treatment of low-back pain. *Spine* 1987;12(7)632-644. Pearce JMS. Aspects of the failed back syndrome: role of litigation. *Spinal Cord* 2000;38:63-70. [Summary Statement] Angevine PD and PC McCormick. Outcomes research and lumbar discectomy. *Neurosurg Focus* 2002;13(2).)

Sincerely,  
**MAXIMUS**

Elizabeth McDonald  
State Appeals Department