

April 20, 2006

VIA FACSIMILE
Quest Health & Rehab
Attention: Shaterrica Washington

VIA FACSIMILE
Zurich American/SRS
Attention: Mona Johnston

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-1140-01
DWC #:
Injured Employee:
Requestor: Quest Health & Rehab
Respondent: Zurich American/SRS
MAXIMUS Case #: TW06-0060

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 reviewer has 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 a 41-year old male who had a work related injury on _____. The patient reported that the injury occurred while holding a vacuum pump hose that jerked and injured his lower back. Diagnoses included lumbar nerve root irritation and myalgia/myositis. Evaluation and treatment have included a MRI, a CT scan, x-rays, a lumbar myelogram, injections, physical therapy, chiropractic services, and a home exercise program.

Requested Services

Preauthorization for work hardening 5 days per week x 4 weeks.

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

Documents Submitted by Requestor:

1. Prescription for Work Conditioning – 2/8/06
2. Preauthorization Request Form – 2/22/06
3. Functional Capacity Evaluation – 1/2/06
4. Quest Health & Rehab Records – 1/31/06
5. Determination Notice – 2/3/06, 2/28/06
6. Work Ability Status Form – 3/30/06

Documents Submitted by Respondent:

1. None submitted.

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 chiropractor consultant indicated the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop." The MAXIMUS chiropractor consultant noted that in its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap". The MAXIMUS chiropractor consultant also noted that these differences include...in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)" The MAXIMUS chiropractor consultant explained that in this case, the proposed work-conditioning program is just the type of questionable services of which the Division of Workers Compensation (DWC) and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs. The MAXIMUS chiropractor

consultant indicated current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises." The MAXIMUS chiropractor consultant indicated that based on that finding, the prospective 5-day, 4-week work-conditioning program is not supported as medically necessary. The MAXIMUS chiropractor consultant also indicated that no treatment records were available for review during the time period immediately preceding the treatment in question. The MAXIMUS chiropractor consultant explained it is unknown what kinds of therapies and/or treatments had been attempted, what was beneficial and what was not, and whether or not the proposed treatment would be in any way different, or merely more of what has already been tried and failed. The MAXIMUS chiropractor consultant noted that without medical treatment records that answer those questions, there is less than sufficient documentation to support the medical necessity of the proposed treatment. (26 Tex. Reg. 9874 (2001). "Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77th Legislature, page 6. Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M. Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the Cochrane Collaboration. Spine. 2003 Feb 1;28(3):209-18.)

Therefore, the MAXIMUS physician consultant concluded that the requested for work hardening 5 days per week x 4 weeks is not medically necessary for treatment of the member'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 20th day of April 2006.

Signature of IRO Employee: _____
External Appeals Department