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**Notice of Independent Medical Review Determination**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 1) MAXIMUS Federal Services, Inc. has determined the request for acupuncture 3 times a week for 4 weeks to the lumbar back **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the requested EMG/NCV bilateral lower extremities **is not medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 6/18/2013 disputing the Utilization Review Denial dated 6/11/2013. A Notice of Assignment and Request for Information was provided to the above parties on 6/19/2013. A decision has been made for each of the treatment and/or services that were in dispute:

- 1) MAXIMUS Federal Services, Inc. has determined the request for acupuncture 3 times a week for 4 weeks to the lumbar back **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the requested EMG/NCV bilateral lower extremities **is not medically necessary and appropriate.**

### Medical Qualifications of the Expert Reviewer:

The independent Medical Doctor who made the decision has no affiliation with the employer, employee, providers or the claims administrator. The physician reviewer is Board Certified in Physical Medicine and Rehabilitation, and is licensed to practice in California. He/she has been in active clinical practice for more than five years and is currently working at least 24 hours a week in active practice. The Expert Reviewer was selected based on his/her clinical experience, education, background, and expertise in the same or similar specialties that evaluate and/or treat the medical condition and treatments and/or services at issue.

### Case Summary:

Disclaimer: The following case summary was taken directly from the utilization review denial/modification dated June 11, 2013:

“This is a 39 year old male with an injury date of 2/27/13 per referral. Per the 5/23/13 progress report, the claimant has complaints of low back and left shin pain. Exam revealed tenderness and spasm. Rom is noted as 21 degrees of extension, right rotation, left rotation and bilateral lateral bending along with 63 degrees of flexion. Pressure over the shin revealed pain. Impression is lumbar stain and left shin contusion. The claimant has been treated with PT and medications.

### “REVIEW QUESTION(S):

Diagnosis: Sprain/strain, left knee 844.9

Clinical Correlations and Analysis: EE is 39 VOM that injure left knee due the fact that a student in a restroom stall swung the door open that struck IW and frontal body. MOI appears consistent with DX, IW appears to have two claims: DOI: 2/13/13 and 2/27/13 back and left shin. Mr [REDACTED] stated that [REDACTED] works with Special Education kids, which involves with lots of activity. IW has refused contact and is not litigated. The left knee appears to have dull ache and medical joint line pain. IW uses brace and attends PT on the other claim. EE appears to use medication for pain. Barriers include litigated claim and some heavy work limitations.”

### **Documents Reviewed for Determination:**

The following relevant documents received from the interested parties and the documents provided with the application were reviewed and considered. These documents included:

- Application for Independent Medical Review (received 6/18/13)
- Utilization Review Determination from [REDACTED] (dated 6/11/13)
- Acupuncture Medical Treatment Guidelines (2009)
- American College of Occupational and Environmental Medicine (ACOEM), 2<sup>nd</sup> Edition, (2004), Low Back Chapter, pg 308-310
- Medical Records from [REDACTED] (dated 2/20/13 – 6/4/13)
- Primary Treating Physician Report from Dr. [REDACTED] (dated 5/24/13)

### **1) Regarding the request for acupuncture 3 times a week for 4 weeks to the lumbar spine:**

#### Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Acupuncture Medical Treatment Guidelines (2009), part of the Medical Treatment Utilization Schedule (MTUS). The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the guidelines used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

#### Rationale for the Decision:

On 2/13/13 the employee sustained a work-related injury to the lower back and knee. Initial diagnosis was strain of back and left knee contusion. On 2/27/13 the employee sustained an additional work-related back strain injury and left shin contusion. Treatment included analgesics, unremarkable lumbosacral X-rays, and 12 physical therapy sessions. A medical report dated 5/24/13 revealed the employee continued to experience chronic, intermittent low back pain with decreased range of motion. A request was submitted for acupuncture and bilateral lower extremity EMG/NCV studies.

Acupuncture Medical Treatment Guidelines state "that acupuncture may be used as an option when pain medication is reduced or not tolerated, it may be used as an adjunct to physical rehabilitation and/or surgical intervention to hasten functional recovery." The guidelines recommended 3-6 treatments to produce functional improvement. Additional acupuncture treatments may be extended if functional improvement is documented. The request for 12 acupuncture treatments exceeds recommendations for an initial course of treatment. Therefore, the request for acupuncture, 3 times a week for 4 weeks, to the lumbar spine **is not medically necessary and appropriate.**

### **2) Regarding the request for electromyography/nerve conduction velocity (EMG/NCV) of the bilateral lower extremities:**

#### Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12), pgs 308-310, of the Medical Treatment Utilization Schedule (MTUS). The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the guidelines used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

On 2/13/13 the employee sustained a work-related injury to the lower back and knee. Initial diagnosis was strain of back and left knee contusion. On 2/27/13 the employee sustained an additional work-related back strain injury and left shin contusion. Treatment included analgesics, unremarkable lumbosacral X-rays, and 12 physical therapy sessions. A medical report dated 5/24/13 revealed the employee continued to experience chronic, intermittent low back pain with decreased range of motion. A request was submitted for acupuncture and bilateral lower extremity EMG/NCV studies.

ACOEM guidelines support the use of electromyography (EMG) to identify neurologic dysfunction in patients with low back symptoms that last more than three to four weeks. The most recent medical report dated 5/24/13 showed no sensory, motor, or reflex deficits and motor strength in the lower extremities was normal. There were no neurologic findings consistent with neuropathy or radiculopathy. Therefore, the request for EMG/NCV of the bilateral lower extremities **is not medically necessary and appropriate.**

**Effect of the Decision:**

The determination of MAXIMUS Federal Services and its physician reviewer is deemed to be the final determination of the Administrative Director, Division of Workers' Compensation. With respect to the medical necessity of the treatment in dispute, this determination is binding on all parties.

In accordance with California Labor Code Section 4610.6(h), a determination of the administrative director may be reviewed only if a verified appeal is filed with the appeals board for hearing and served on all interested parties within 30 days of the date of mailing of the determination to the employee or the employer. The determination of the administrative director shall be presumed to be correct and shall be set aside only upon proof by clear and convincing evidence of one or more of the grounds for appeal listed in Labor Code Section 4610.6(h)(1) through (5).

Sincerely;

Richard C. Weiss, MD, MPH, MMM, PMP  
Medical Director

cc: Department of Industrial Relations  
Division of Workers' Compensation  
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Disclaimer: MAXIMUS is providing an independent review service under contract with the California Department of Industrial Relations. MAXIMUS is not engaged in the practice of law or medicine. Decisions about the use or nonuse of health care services and treatments are the sole responsibility of the patient and the patient's physician. MAXIMUS is not liable for any consequences arising from these decisions.



