

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 11/19/2013

[REDACTED]

[REDACTED]

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 8/5/2013
Date of Injury: 2/20/2007
IMR Application Received: 8/12/2013
MAXIMUS Case Number: CM13-0010129

- 1) MAXIMUS Federal Services, Inc. has determined the request for **acupuncture eval. & treat qty: 1.00** is medically necessary and appropriate.
- 2) MAXIMUS Federal Services, Inc. has determined the request for **pt eval. & treat qty: 1.00** is not medically necessary and appropriate.
- 3) MAXIMUS Federal Services, Inc. has determined the request for **Nucynta Er 50mg #60 QTY: 60.00** is not medically necessary and appropriate.

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/12/2013 disputing the Utilization Review Denial dated 8/5/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/17/2013. 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 eval. & treat qty: 1.00** is **medically necessary and appropriate**.
- 2) MAXIMUS Federal Services, Inc. has determined the request for **pt eval. & treat qty: 1.00** is **not medically necessary and appropriate**.
- 3) MAXIMUS Federal Services, Inc. has determined the request for **Nucynta Er 50mg #60 QTY: 60.00** is **not medically necessary and appropriate**.

Medical Qualifications of the Expert Reviewer:

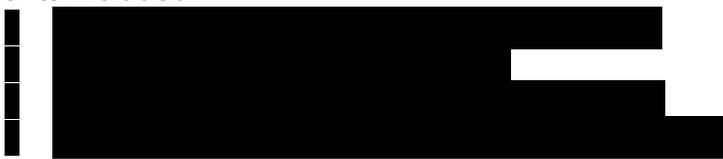
The independent Medical Doctor who made the decision has no affiliation with the employer, employee, providers or the claims administrator. The physician reviewer is Board Certified in Internal Medicine, and is licensed to practice in California. He/she has been in active clinical practice for more than 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.

Expert Reviewer Case Summary:

The patient sustained an industrial injury on 02/20/2007. The patient is s/p L5-S1 laminectomy and discectomy as of 08/05/2008. The patient underwent an orthopedic AME on 05/31/2012. The diagnoses are residuals of musculoligamentous strain lumbosacral spine, lumbar disc protrusion/extrusion L5-S1 with MRI evidence of displacement of the right S1 nerve root, intraoperative finding of left intravertebral disc protrusion at L5-S1; status post L5-S1 laminectomy and discectomy 08/05/2008. The patient continues with low back pain and has been treated with medical therapy with Ibuprofen, Norco, Flexeril, and recently Lyrica, and Nucynta ER, physical therapy and traction, and epidural steroid injection therapy. The patient reports partial pain relief with the present medical regimen. Physical exam is notable for an antalgic gait, markedly positive straight leg raise on the left, left sided facet pain at L3-S1 and tenderness of the lumbar paraspinal muscles. Motor strength is grossly normal except for weakness noted in the left lower extremity and decreased sensation at L4-5 and L5-S1 on the left. The patient has been recommended to undergo acupuncture, physical therapy, an evaluation by a pain management psychologist and continued medical therapy with Nucynta ER.

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:



1) Regarding the request for acupuncture eval. & treat qty: 1.00 :

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the Acupuncture Medical Treatment Guidelines, which is part of the MTUS.

The Expert Reviewer based his/her decision on the Acupuncture Medical Treatment Guidelines, which is part of the MTUS, and Pain Medicine and Management – Mark S. Wallace/Peter S Statts, page 263-264, which is not part of the MTUS.

Rationale for the Decision:

The MTUS Acupuncture Guidelines indicate that the time to produce functional improvement is three to six treatments. The records submitted for review indicate the employee has a chronic pain syndrome. The employee has not had previous treatment with acupuncture therapy. Acupuncture is indicated in the treatment of chronic back pain. It has been shown to be more effective than TENS or exercise therapy in providing short-term pain relief and improved physical function in patients with long-term low back pain. A trial of acupuncture therapy is recommended. **The request for acupuncture evaluation qty: 1.00 is medically necessary and appropriate.**

2) Regarding the request for pt eval. & treat qty: 1.00:

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines, Physical Medicine, which is part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, page 98, which is part of the MTUS.

Rationale for the Decision:

The MTUS Chronic Pain Guidelines indicate that physical medicine treatment should allow for fading of treatment frequency from up to 3 visits per week to 1 or less, plus active self-directed home physical medicine. The records submitted for review indicate that the employee has tried and failed previous physical therapy treatments. The guidelines indicate that without evidence of improvement in pain and function with prior physical therapy, the medical necessity for additional physical therapy is not established. The records in this case do not document evidence of functional improvement. **The request for physical therapy (PT) evaluation (Eval.) & treatment QTY: 1.00 is not medically necessary and appropriate.**

3) Regarding the request for Nucynta Er 50mg #60 QTY: 60.00:

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on www.drugs.com/tapentadol.html, which is not part of the MTUS, and the Official Disability Guidelines (ODG), Pain Chapter, Tapentadol, which is not part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, page 74, which is part of the MTUS.

Rationale for the Decision:

The guidelines indicate that Nucynta is recommended as second line therapy for patients who develop intolerable adverse effects with first line opioids. The employee is presently maintained on an opioid, Norco, without any noted intolerable adverse effects to this medication. Additionally there has been no report of the employee's response to therapy with the current opioid regimen. The rationale for continuing treatment with Nucynta has not been established. **The request for Nucynta ER 50mg #60 QTY: 1 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,

Paul Manchester, MD, MPH
Medical Director

cc:



/bh

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.