

**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:	8/1/2013
Date of Injury:	9/23/2010
IMR Application Received:	8/12/2013
MAXIMUS Case Number:	CM13-0010285

- 1) MAXIMUS Federal Services, Inc. has determined the request for **retrospective request for Theraflex cream 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 8/1/2013. 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 **retrospective request for Theraflex cream** 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 Occupational 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:**

All medical, insurance, and administrative records provided were reviewed. The applicant is a represented [REDACTED] employee who has filed a claim for chronic low back pain reportedly associated with an industrial injury of September 23, 2010. Thus far, he has been treated with the following: Analgesic medications; adjuvant medications; prior lumbar fusion surgery; and transfer of care to and from various providers in various specialties. In an August 1, 2013 utilization review report, the claims administrator denied request for a topical compound. The applicant's attorney subsequently appealed, on August 8, 2013. It is noted on a May 14, 2013 order form that the applicant was given prescriptions for oral Tylenol No. 3, oral Restoril, and topical compounded Biotherm cream. In a later progress note of June 26, 2013, the attending provider provided prescriptions for oral tramadol and topical compounded Biotherm cream. It is noted that the Biotherm cream contains capsaicin.

### **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 of Independent Medical Review
- Utilization Review Determination
- Medical Records from Claims Administrator
- Medical Treatment Utilization Schedule (MTUS)

### **1) Regarding the request for retrospective request for Theraflex cream:**

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

The Claims Administrator based its decision on the CA MTUS-Topical Analgesics, which is a part of the MTUS.

The Expert Reviewer based his/her decision on the Initial Approaches to Treatment (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 3), Initial Approaches to Treatment, Oral Pharmaceuticals, pg. 47 and the Chronic Pain Medical Treatment Guidelines, pg 111, which are part of the MTUS.

Rationale for the Decision:

TheraFlex represents a topical compound, the ingredients of which have not been clearly stated by the attending provider. As suggested on page 111 of the MTUS Chronic Pain Medical Treatment Guidelines, topical analgesics are largely experimental. Oral pharmaceuticals, per the MTUS-adopted ACOEM guidelines in chapter 3, are deemed the most appropriate first-line palliative measure. In this case, however, the reviewed medical records do not provide evidence of intolerance to and/or failure of multiple classes of oral pharmaceuticals to make a case for topical analgesics or topical compounds. It is noted here that the employee is using two separate oral analgesics, both tramadol and Tylenol No. 3, without any reported difficulty, impediment, and/or impairment. Usage of topical compounds is not recommended in this context. **The retrospective request for Theraflex cream 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: Department of Industrial Relations  
Division of Workers' Compensation  
1515 Clay Street, 18<sup>th</sup> Floor  
Oakland, CA 94612

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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.