

Notice of Independent Medical Review Determination

Dated: 12/4/2013

[REDACTED]

[REDACTED]-8918

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 7/12/2013
Date of Injury: 11/8/2004
IMR Application Received: 8/13/2013
MAXIMUS Case Number: CM13-0010448

- 1) MAXIMUS Federal Services, Inc. has determined the request for **1 year gym and pool membership is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **Hydrocodone/APAP 10/325mg #60 is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for **Tramadol 50mg #60 is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for **Zolpidem 10mg #30 is not medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for **unknown localized intense neurostimulation therapy (LINT) is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/13/2013 disputing the Utilization Review Denial dated 7/12/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/18/2013. 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 **1 year gym and pool membership is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **Hydrocodone/APAP 10/325mg #60 is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for **Tramadol 50mg #60 is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for **Zolpidem 10mg #30 is not medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for **unknown localized intense neurostimulation therapy (LINT) 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 Preventative Medicine and 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:

The applicant is a represented [REDACTED] employee who has filed a claim for chronic low back pain reportedly associated with industrial injury of November 8, 2004. Thus far, the applicant has been treated with the following: Analgesic medications; adjuvant medications; psychotropic medications and psychological counseling; transfer of care to and from various providers in various specialties; prior L5-S1 laminectomy, decompression and fusion surgery; a TENS unit; and extensive periods of time off of work.

In a psychiatric consultation of July 31, 2013, it is stated the applicant cannot return to open labor market.

In a Utilization Review Report of July 11, 2013, the claims administrator apparently denied a request for gym and pool membership, denied a request for hydrocodone, denied a request for tramadol, denied a request for Ambien, and denied a request for localized intense neurostimulation therapy.

An earlier progress report of June 18, 2013, is notable for comments that the applicant reports ongoing low back pain, a surgical scar is appreciated. The applicant exhibits a

slow gait with painful heel-and-toe ambulation. The applicant is asked to pursue localized intense neurostimulation therapy, consider possible selective nerve root blocks, and is given multiple medication refills.

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 Employee/Employee Representative
- Medical Treatment Utilization Schedule (MTUS)

1) Regarding the request for 1 year gym and pool membership :

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the Official Disability Guidelines, (ODG), Low Back – Lumbar & Thoracic (Acute & Chronic), which is not part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Aqua Therapy, pg. 22, of 127, also pgs. 47-48, Exercise, and Cornerstones of Disability Prevention and Management (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 5) pg. 83, Employee's/Patient's Role, which is a part of the MTUS and ODG, Low Back Chapter, Gym memberships, which is not a part of the MTUS.

Rationale for the Decision:

MTUS Chronic Pain Medical Treatment Guidelines, pg. 22, suggests that aquatic therapy can be considered an optional form of exercise therapy in those applicants in whom reduced weightbearing is desirable. A review of the records indicates that in this case, however, it is not clearly stated how or why reduced weightbearing would be desirable. It is not clearly stated why the employee cannot and/or should not participate in land-based exercises. Pages 46 and 47 of the MTUS Chronic Pain Medical Treatment Guidelines suggest that there is no evidence to endorse any one particular exercise program over another. Finally, the MTUS-adopted ACOEM Guidelines in Chapter 5 states that adhering to exercise and medication regimens are a matter of an employee's responsibility as opposed to a medical necessity. It is incidentally that the unfavorable MTUS recommendation is echoed by that of the ODG low back chapter Gym membership topic, which states that gym memberships should not be recommended as a medical prescription unless a documented home exercise program has failed and there is specific need for specialized equipment. In this case, however, the attending provider has not clearly stated why or how home exercises failed and/or why specialized equipment is indicated. **Therefore, the request for 1 year gym and pool membership is not medically necessary or appropriate.**

2) Regarding the request for Hydrocodone/ APAP 10/325mg #60 :

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator did not cite any evidence based criteria for its decision.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, When to continue Opioids, page 80 of 127, which is a part of the MTUS.

Rationale for the Decision:

As noted on page 80 of the MTUS Chronic Pain Medical Treatment Guidelines, the cardinal criteria for continuation of opioid therapy include evidence of successful return to work, improved functioning, and/or reduce pain effected through ongoing usage of the opioids. A review of the records indicates, in this case however, the employee has clearly failed to return to work. There is no evidence of improved function and/or reduced pain appreciated on any recent progress note provided. **The request for Hydrocodone/ APAP 10/325mg #60 is not medically necessary or appropriate.**

3) Regarding the request for Tramadol 50mg #60 :

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator did not cite any evidence based criteria for its decision.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, When to continue Opioids, page 80 of 127, which is a part of the MTUS.

Rationale for the Decision:

A review of the records indicates that the employee has failed to meet the three cardinal criteria set forth on page 80 of the MTUS Chronic Pain Medical Treatment Guidelines for continuation of opioids therapy. Namely, the employee has failed to return to and failed to clearly demonstrate evidence of reduced pain and/or improved functioning through ongoing opioids usage. **The request for Tramadol 50mg #60 is not medically necessary and appropriate.**

4) Regarding the request for Zolpidem 10mg #30:

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the Official Disability Guidelines, Pain (Chronic), which is not a part of the MTUS.

The Expert Reviewer found that no section of the MTUS was applicable. Per the Strength of Evidence hierarchy established by the California Department of Industrial Relations, Division of Workers' Compensation, the Expert Reviewer based his/her decision on the Official Disability Guidelines (ODG), Chronic Pain Chapter, Zolpidem, which is not a part of the MTUS.

Rationale for the Decision:

The MTUS does not specifically address this topic. As noted in the ODG Chronic Pain chapter of Zolpidem topic, Zolpidem is a short-acting anxiolytic which is indicated in a short-term management of insomnia. Zolpidem can only be used safely for short amount of time. It is not recommended in the nightly, regular, and scheduled usage proposed by the attending provider. **The request for Zolpidem 10mg #30 is not medically necessary and appropriate.**

5) Regarding the request for unknown localized intense neurostimulation therapy (LINT) :

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator did not cite any evidence based criteria for its decision.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, PENS, pg. 97, which is part of the MTUS, as well as the article A Novel Image-Guided, Automatic, High-Intensity Neurostimulation Device for the Treatment of Nonspecific Low Back Pain, from Pain Research and Treatment, Volume 2011, which is not part of the MTUS.

Rationale for the Decision:

As noted on page 97 of the MTUS Chronic Pain Medical Treatment Guidelines, a trial of percutaneous electrical neurostimulation may be considered as an adjunct to a program of functional restoration after non-surgical treatments such as therapeutic exercises and when conventional TENS unit have been tried and/or failed. A review of the records indicates, in this case, there is no evidence that a conventional TENS unit has been tried and/or failed. There is no evidence that the employee intends to use the PENS device in conjunction with a program of functional restoration. Rather, the fact that the employee remains off of work and apparently has no intention of returning to the workforce or the workplace implies that there is no intent on functional restoration. Therefore, the original Utilization Review decision is upheld. **The request for unknown localized intense neurostimulation therapy (LINT) 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, 18th Floor
Oakland, CA 94612

/dat

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.