

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 11/22/2013

[REDACTED]

[REDACTED]

Employee:	[REDACTED]
Claim Number:	[REDACTED]
Date of UR Decision:	8/4/2013
Date of Injury:	7/30/2012
IMR Application Received:	8/12/2013
MAXIMUS Case Number:	CM13-0010662

- 1) MAXIMUS Federal Services, Inc. has determined the request for **one functional capacity evaluation 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 8/4/2013. 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 **one functional capacity evaluation 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 Orthopedic Surgery 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:

This is a 46 year old right hand dominant male [REDACTED] who reported right shoulder pain 07/30/11 to 07/30/12 which he attributed to his work duties. The claimant was required to do extensive driving, continuous maneuvering of his hands and arms, repetitive standing, walking, bending, stooping, squatting, twisting, pulling/ pushing and forceful gripping/ grasping. He was required to lift up to 200 pounds. The claimant's past medical history included borderline hypertension, hyperlipidemia and the claimant was noted to be a non – smoker. Diagnoses included right shoulder impingement and right shoulder rotator cuff tear. A right shoulder diagnostic arthroscopy was performed on 01/18/13 with extensive synovectomy, chondroplasty of the glenoid, right shoulder arthrotomy, open subacromial decompression with resection of the CA ligament and placement of pain pump. No complications were reported.

A post-operative physician visit with Dr. [REDACTED] on 01/30/13 noted the claimant reporting a reduction in right shoulder pain and improvement in function following surgical intervention. There was some residual pain reported. There was decreased right shoulder motion in flexion and abduction. Strength was graded 4/5 and impingement signs persisted. The claimant was advised medication and physical therapy. Continued work restrictions were recommended. A followup physician visit with Dr. [REDACTED] on 04/10/13 revealed the claimant status post right shoulder surgery and waiting for authorization for post-operative physical therapy. There was continued to be right shoulder decreased motion in flexion and abduction less than 90 degrees. Work restrictions with avoidance of overhead and over shoulder work right side was recommended. Residual right shoulder pain was reported on a 05/22/13 office visit. Physical therapy was denied. On physical examination, discomfort was noted on elevation of right upper extremity against gravity at approximately 95 degrees. Diagnoses remained unchanged as shoulder region disorders and shoulder tendinitis/ bursitis. Neurontin was prescribed to address burning pain and denial for physical therapy was appealed. A formal request was made for a functional capacity evaluation

to systematically document the claimant's current physical abilities. Continued modified work duties were recommended.

A 06/19/13 physician visit with Dr. [REDACTED] noted the claimant with continued right shoulder pain with decreased range of motion on flexion and abduction. Physical therapy had been denied. The claimant was taking over the counter medications. A physical examination showed right shoulder decreased motion in flexion and abduction, loss of strength to the deltoid 4/5 and positive impingement and Hawkins sign. According to the treating physician, the claimant was approaching maximum medical improvement. The plan was for a Functional Capacity Evaluation in order to provide the claimant with permanent work restrictions which would allow him to stay in the work force without exacerbating his industrial injury. Continued work restrictions were recommended to include no over the shoulder or over head work with the right arm. Follow up in six weeks was advised.

The request for Functional Capacity Evaluation was previously denied on peer review 08/05/13 as the claimant was instructed to return to work modified duty with no indication of complex issues such as failed attempts to return to work. In addition, the request would not satisfy guideline criteria.

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 one functional capacity evaluation:

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), Fitness for Duty.

The Expert Reviewer based his/her decision on the Cornerstones of Disability Prevention and Management (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 5), Managing Delayed Recovery, pages 89-92, which is part of the MTUS, and American College of Occupational and Environmental Medicine (ACOEM) guidelines, 2nd Edition (2004), Chapter 7, Consultations and Independent Medical Examinations, pages 137-138, which is not part of the MTUS.

Rationale for the Decision:

The request for a Functional Capacity Evaluation does not appear to be medically necessary at this point. This is an employee who apparently reported right shoulder pain since July 30, 2011 through July 30, 2012. The employee was diagnosed with right shoulder impingement and right shoulder rotator cuff tear. A

right shoulder diagnostic arthroscopy was performed on January 18, 2013 with “extensive synovectomy, chondroplasty of the glenoid, right shoulder arthrotomy, open subacromial decompression and resection of the ligament”. It appears that the employee was seen on multiple episodes by Dr. [REDACTED]. Although there is documentation of return to work per the physician’s request with restrictions, there is no evidence in the medical records provided that this actually occurred. There was an apparent formal request for a Functional Capacity Evaluation on two separate occasions in the past.

Based on California MTUS/ACOEM Guidelines, it is important to note that “There is little scientific evidence confirming that FCE’s can predict individuals actual capacity to perform in the work place; an FCE reflects what an individual can do in a single day, at a particular time, under controlled circumstances that provide an indication of that individual’s abilities”.

Furthermore, based on the records provided, once again, there does not appear to be evidence that a return to work has occurred and that there have been failed attempts for return to work in the past.

Based upon the documentation provided and the CA MTUS Guidelines, the Functional Capacity Evaluation in this case cannot be recommended as medically necessary. **The request for one functional capacity evaluation 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

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