

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 12/16/2013

[REDACTED]

[REDACTED]

Employee:	[REDACTED]
Claim Number:	[REDACTED]
Date of UR Decision:	8/6/2013
Date of Injury:	5/6/2009
IMR Application Received:	8/14/2013
MAXIMUS Case Number:	CM13-0010791

- 1) MAXIMUS Federal Services, Inc. has determined the request for **one UDS between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **ten cognitive behavioral therapy sessions between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for **twelve aquatic therapy sessions between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for **one perscription of Tramadol 50mg #150 between 7/9/2013 and 9/23/2013 is medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for **Neurontin 600mg #60 is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/14/2013 disputing the Utilization Review Denial dated 8/6/2013. A Notice of Assignment and Request for Information was provided to the above parties on 10/11/2013. 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 UDS between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **ten cognitive behavioral therapy sessions between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for **twelve aquatic therapy sessions between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request **for one perscription of Tramadol 50mg #150 between 7/9/2013 and 9/23/2013 is medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for **Neurontin 600mg #60 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:

The applicant is a represented former [REDACTED] ironworker who has filed a claim for chronic neck pain, shoulder pain, low back pain, leg pain, and knee pain reportedly associated with an industrial injury of May 6, 2009.

Thus far, he has been treated with the following: Analgesic medications; transfer of care to and from various providers in various specialties; apparent diagnosis with chronic low back and foot pain; extensive periods of time off of work; and unspecified amounts of cognitive behavioral therapy over the life of the claim, including two to three visits a month over the one year preceding the utilization review decision.

In a utilization review report of August 6, 2013, the claims administrator denied a request for a urine drug screen, 10 sessions of cognitive behavioral therapy, and 12 sessions of aquatic therapy. Tramadol was partially certified, while Neurontin was non-certified. Oral ketoprofen was certified.

In a progress report of July 30, 2013, it is stated that the applicant reports pain with medications scored at 4-6/10 and without medications at 7-8/10. It is stated that the applicant is stable on his current medication regimen. It is stated that urine drug testing should be performed four to six times a year. The applicant is asked to continue various oral and topical medications while remaining off of work. In a later note of August 20, 2013, it is again stated that the applicant exhibits diminished pain with medications as opposed to heightened pain without medications. The applicant is somewhat overweight with a BMI of 29 based on a height of 5 feet 10 inches and a weight of 200 pounds. It is stated that the cognitive behavioral therapy did result in the applicant's reporting less depression. It is stated that the aquatic therapy resulted in the applicant's being able to use less pain medications and move around in a more facile manner.

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 UDS between 7/9/2013 and 9/23/2013:

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 University of Michigan Health System Guidelines for Clinical Care: Managing Chronic Non-terminal Pain, Including Prescribing Controlled Substances (May 2009), pg 10 and the following website: www.medicalbillingcptmodifiers.com/2010/12/qualitative-drug-testing-cpt-80100.html, which are not part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines (2009), page 43, which is part of the MTUS; and the Official Disability Guidelines (ODG), Pain, Criteria for Use of Urine Drug Testing, which is not part of the MTUS.

Rationale for the Decision:

While page 43 of the MTUS Chronic Pain Medical Treatment Guidelines does endorse intermittent urine drug testing to assess for the presence or absence of illegal drugs, the MTUS does not establish parameters for testing frequency or suggest a panel of drugs to be tested. The ODG Chronic Pain Chapter, urine drug testing topic, suggests that the Department of Transportation Guidelines represent the most legally defensible framework for performing urine drug testing. ODG further suggests that an attending provider furnish a complete list

of medications that an employee is taking prior to requesting testing and that an attending provider further state exactly which tests and specific drugs he is evaluating for. In this case, however, the attending provider did not furnish a complete list of medications which the employee is taking, although it is noted that those medications were refilled. Criteria for performing urine drug testing have not been met owing to the lack of specific documentation on the part of the attending provider. **The request for one UDS between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**

2) Regarding the request for ten cognitive behavioral therapy sessions between 7/9/2013 and 9/23/2013:

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 Stress Related Conditions Chapter (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 15), page 403, Stress Related Conditions, which is part of MTUS.

Rationale for the Decision:

As noted in the MTUS-adopted ACOEM Guidelines in Chapter 15, an applicant's failure to improve should lead an attending provider to reconsider the diagnosis, as there may be unrecognized medical and/or psychosocial conditions evident that are generating an applicant's failure to improve. In this case, it does not appear that the employee has made any appreciable progress to date with all the cognitive behavioral therapy. There is no evidence that the employee has successfully returned to work. There is no evidence of progressive diminution in work restrictions. There is no evidence of diminished reliance on medical treatment. Rather, the fact that the employee continues to use numerous analgesic and adjuvant medications argues against any diminished reliance on medical treatment. It is further noted that ACOEM notes that the ultimate goal of therapy is preserving an applicant's function at work and in social relationships. There is no indication here that the employee has returned to work and/or has demonstrated improved functioning as a result of the prior cognitive behavioral therapy. **The request for ten cognitive behavioral therapy sessions between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**

3) Regarding the request for twelve aquatic therapy sessions between 7/9/2013 and 9/23/2013:

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 (2009), pages 22 and 99, which are part of MTUS.

Rationale for the Decision:

As noted on page 22 of the MTUS Chronic Pain Medical Treatment Guidelines, aquatic therapy is endorsed as an optimal form of exercise therapy in those applicants in who reduced weight bearing is desirable. In this case, however, there is no evidence that the employee has a condition or conditions for which reduced weight bearing is desirable. There is no clearly stated rationale as to why the employee cannot ambulate of his own accord at this late day, several years removed from the date of injury. It is further noted that page 99 of the MTUS Chronic Pain Medical Treatment Guidelines endorses active modalities and self-directed home physical medicine in the chronic pain phase of the injury. **The request for twelve aquatic therapy sessions between 7/9/2013 and 9/23/2013 is not medically necessary and appropriate.**

4) Regarding the request for one perscription of Tramadol 50mg #150 between 7/9/2013 and 9/23/2013:

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 in its utilization review determination.

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

Rationale for the Decision:

As suggested by the attending provider, the employee does meet criteria set forth on page 80 of the MTUS Chronic Pain Medical Treatment Guidelines for opioids or opioid analogs such as tramadol. Specifically, the employee has returned to work and reports both improved functioning and reduced pain through ongoing usage of opioids. **The request for one perscription of Tramadol 50mg #150 between 7/9/2013 and 9/23/2013 is medically necessary and appropriate.**

5) Regarding the request for Neurontin 600mg #60:

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 Chronic Pain Medical Treatment Guidelines, Gabapentin, which is part of MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, page 19, which is part of MTUS.

Rationale for the Decision:

As noted on page 19 of the MTUS Chronic Pain Medical Treatment Guidelines, Neurontin should be weaned and/or changed to another drug in the same category if there is evidence of inadequate response. In this case, there was no clear evidence of favorable response or functional improvement effected through prior usage of Neurontin. It does not appear that the applicant returned to work.

The applicant's concurrent usage of multiple analgesic and adjuvant medications such as ketoprofen, tramadol, Norflex, etc., furthermore, likewise implies significant dependence on medical treatment, further arguing against functional improvement as defined in section 9792.20f. Thus, given the prior unfavorable response to Neurontin and lack of functional improvement effected through prior usage of the same, **the request for Neurontin 600mg #60 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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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.