

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 12/17/2013

[REDACTED]

[REDACTED]

Employee:

Claim Number:

[REDACTED]

[REDACTED]

Date of Injury:

9/29/2011

IMR Application Received:

8/15/2013

MAXIMUS Case Number:

CM13-0012018

- 1) MAXIMUS Federal Services, Inc. has determined the request **for functional capacity evaluation for right shoulder is not medically necessary and appropriate.**

- 2) MAXIMUS Federal Services, Inc. has determined the request for **final evaluation for P & S is medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/15/2013 disputing the Utilization Review Denial dated 8/15/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/30/2013. 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 **functional capacity evaluation for right shoulder is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **final evaluation for P & S is 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 patient is a represented [REDACTED] employee, who has filed a claim for chronic shoulder pain, reportedly associated with an industrial injury of September 29, 2011. Thus far, the patient has been treated with the following: Analgesic medications; negative x-rays of the elbows and shoulders dated August 6, 2012; transfer of care to and from various providers in various specialties; extensive periods of time off of work, on total temporary disability; and right shoulder arthroscopy on November 7, 2012.

In a utilization review report of August 15, 2013, the claims administrator denied request for functional capacity evaluation and a final evaluation for permanent and stationary purposes. It is noted that the patient has been given work restrictions, which apparently have not been accommodated by the employer. The patient's attorney appealed the unfavorable utilization review decision on August 20, 2013. A subsequent note of September 10, 2013, is notable for comments that the patient's shoulder range of motion is 95% normal. The patient was given a 15-pound lifting limitation. It does not appear that this has been accommodated. An earlier note of July 30, 2013, is notable for complaints for minimal to no shoulder pain with near normal shoulder range of motion of 160-degree range. The patient is issued a 10-pound lifting limitation. The patient is approaching permanent and stationary status. It is stated that a permanent and stationary evaluation can be performed, following completion of a functional capacity evaluation.

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 functional capacity evaluation for right shoulder:

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

The Claims Administrator based its decision on the Initial Approaches to Treatment (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 3), pages 48 – 49, as well as Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), pages 308 – 310, and Neck and Upper Back Complaints Chapter (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 8), pages 181 – 185, all of which are part of the MTUS.

The Expert Reviewer based his/her decision on the ACOEM Practice Guidelines 2nd Ed., Independent Medical Examinations and Consultations Chapter, pgs. 137-138, as well as the Chronic Pain Medical Treatment Guidelines, pages 125 of 127, both of which are part of the MTUS.

Rationale for the Decision:

While the MTUS does not specifically address all the requests for functional capacity evaluation testing, page 125 of the MTUS Chronic Pain Medical Treatment Guidelines does suggest that FCEs can be performed as a precursor to admission to a work-hardening program. In this case, however, the employee is not considering a work-hardening program. The employee is described as approaching permanent and stationary status. As noted in the Chapter 7 of ACOEM Guidelines on FCEs, FCEs are widely used, overly used, overly promoted, are not necessarily an accurate characterization or depiction of what an applicant can or cannot do in the workplace. In this case, it appears that the employee is making appropriate strides in clinical progress from visit to visit. The employee's limitations are being appropriately reduced with program progression, based on clinical judgment, effectively obviating the need for an FCE. **The request for functional capacity evaluation for right shoulder is not medically necessary and appropriate.**

2) Regarding the request for final evaluation for P & S:

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

The Claims Administrator based its decision on the The Claims Administrator based its decision on the Initial Approaches to Treatment (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 3), pages 48 – 49, as well as Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), pages 308 – 310, and Neck and Upper Back Complaints Chapter (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 8), pages 181 – 185, which are part of the MTUS.

The Expert Reviewer based his/her decision on the Cornerstones of Disability Prevention and Management (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 5), page 79, which is part of the MTUS.

Rationale for the Decision:

As noted in the MTUS-adopted ACOEM Guidelines in Chapter 5, the clinician should, in the ideal situation, act as the primary case manager. In this case, the attending provider has deemed the employee as having reached or approached maximum medical improvement. Declaring the employee permanent and stationary is therefore appropriate. Accordingly, the request for a permanent and stationary evaluation is certified. **The request for final evaluation for P & S is 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.