

---

**Notice of Independent Medical Review Determination**

Dated: 8/26/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee: [REDACTED]  
Claim Number: [REDACTED]  
Date of UR Decision: 7/2/2013  
Date of Injury: 1/11/2008  
IMR Application Received: 7/12/2013  
MAXIMUS Case Number: CM13-0001315

- 1) MAXIMUS Federal Services, Inc. has determined the request for 300 Botox units **is medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/12/2013 disputing the Utilization Review Denial dated 7/2/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/16/2013. 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 300 Botox units **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 Neurology 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.

### Case Summary:

Disclaimer: The following case summary was taken directly from the utilization review denial/modification dated July 2, 2013.

#### History of Condition

The patient is a 50 year old with date of injury on 1/11/08. The request is for Botox 300 units. He is status post arthroscopic acromioplasty and biceps tenodesis on 4/2/09. He saw Dr. [REDACTED] MD on 4/13/11 for a neurology evaluation. With reports of neck pain radiating into the arms, decreased memory, sexual dysfunction. Neurologic exam was normal. Dr. [REDACTED] diagnosed a cerebral contusion with residuals, and possible cervical root irritation. He ordered diagnostic studies.

The patient saw Dr. [REDACTED] MD on 9/6/11 for follow up. He reported no change in his PTSD, depression, left shoulder pain, bilateral epicondylitis, TMJ or low back pain. On 10/4/11, he requested "a change in neurology for memory concerns as well as post concussive syndrome". He felt he did not have reasonable rapport with Dr. [REDACTED]. The patient saw Dr. [REDACTED] MD. A request for Levitra was denied by another reviewer on 1/30/12. Dr. [REDACTED] wrote an appeal dated 2/15/12, indicating the patient's vilazodone (SSRI) prescription was very beneficial for the patient's PTSD and MDD but was causing sexual side effects.

A request for Botox injection was authorized on 3/20/12.

On 5/30/12, Dr. [REDACTED] requested repeat injections. The patient reported feeling more comfortable and active in PT. On 5/9/12 he indicated "medications are being reduced" but did not provide any specifics (e.g. pill counts).

On 6/29/12, he reported that the cervical dystonia symptoms were returning. Exam found spasm.

The request for repeat Botulinum injection was denied.

Dr. [REDACTED] provided a letter dated 12/11/12. He indicated the patient was seen on that date with recurring cervical dystonia. Exam found spasm. He prescribed repeat Botox therapy, noting 80% relief in the past. The request was denied since there was no documentation of functional improvement.

A letter dated 2/9/13 reiterated the same findings and the same request.

The request was denied on 2/21/13, 4/8/13, 4/19/13.

The 5/16/13 visit note indicated the patient had increased cervical dystonia symptoms, and good results with the October 2012 Botulinum injection. There was 80% resolution of spasm and the patient was "more functional with his concomitant physical therapy".

A note from Dr. [REDACTED] MD on 6/18/13 indicates the patient's cervical spasm is persisting and the patient remains inactive. The exam reveals cervical paraspinal muscle spasm. He was treated in the past with botox which afforded him 80% decrease in cervical spasm. Prior conservative measures have failed. The patient is noted to have been more active with prior botox use for the cervical dystonia.

A request for additional information was made to which there was NO RESPONSE—specifically, "Please provide documentation of objective findings of functional improvement from the October 2012 Botulinum injection where there was 80% resolution of spasm and the patient was "more functional with his concomitant physical therapy".

While the patient reported symptomatic improvement with the previous Botox injection, no functional improvement has been documented. Evidence of significant, lasting improvement is required for requests of continued treatment.

### **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 for Independent Medical Review
- Utilization Review Determination by [REDACTED] (dated 7/2/13)
- Primary Treating Physician Progress Reports (dated 5/3/12 to 6/10/13)
- Medical Reports by [REDACTED], M.D. (dated 2/8/13 to 3/24/13)
- Medical Notes by [REDACTED], M.D. (dated 5/30/12 to 3/27/13)
- Physical Therapy Notes by [REDACTED] (dated 11/29/12 to 12/20/12)
- Medial Record by [REDACTED] (dated 9/26/12)
- Medical Records by [REDACTED], M.D. (dated 6/11/12 to 6/10/13)
- QME Report by [REDACTED], M.D. (dated 6/7/13)
- Medical Note by [REDACTED] (dated 11/16/12)
- Medical Records by [REDACTED] (dated 5/29/12 to 6/17/13)
- Official Disability Guidelines (ODG) – Neck Chapter, Botulinum Toxin (Injection) section

### **1) Regarding the request for 300 Botox units:**

#### Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Official Disability Guidelines (ODG) – Neck Chapter, Botulinum Toxin (Injection) section, which is a medical treatment guideline that is not part of the California Medical Treatment Utilization Schedule. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer determined that the MTUS does not address the issue in dispute. The Expert Reviewer found the guidelines used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee was injured on 1/11/2008 and has experienced neck pain radiating into the arms, low back pain, left shoulder pain, decreased memory, sexual dysfunction, post-traumatic stress disorder, bilateral epicondylitis, and depression. Diagnoses included cervical dystonia and anterocollis. A request for Botox injections was authorized on 3/20/2012. A new request for 300 Botox units was submitted.

The MTUS does not reference Botox therapy. The ODG, Neck Chapter, Botox section states that Botox is appropriate if the patient's condition is moderate to severe, and chronic. Botox is a first line treatment for the employee's condition. The medical records submitted and reviewed indicate prior Botox treatments were beneficial with 80% relief and increased comfort and activity in physical therapy sessions. The employee's prior improvement after Botox treatments indicates clinical benefit that warrants retreatment on an ongoing basis. The request for 300 Botox units 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;

Richard C. Weiss, MD, MPH, MMM, PMP  
Medical Director

cc: Department of Industrial Relations  
Division of Workers' Compensation  
1515 Clay Street, 18<sup>th</sup> Floor  
Oakland, CA 94612

/dj

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.