
Notice of Independent Medical Review Determination

Dated: 9/6/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 7/11/2013
Date of Injury: 8/24/2005
IMR Application Received: 7/17/2013
MAXIMUS Case Number: CM13-0001892

- 1) MAXIMUS Federal Services, Inc. has determined the request for a 6 month gym membership **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for 17 psychotherapy sessions **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/17/2013 disputing the Utilization Review Denial dated 7/11/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/19/2013. 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 6 month gym membership **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for 17 psychotherapy sessions **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.

Case Summary:

Disclaimer: The following case summary was taken directly from the utilization review denial/modification dated July 11, 2013.

DIAGNOSIS: Chronic Lower back pain; lumbar spine sprain/strain; cervical spine sprain/strain

CLINICAL SUMMARY: The 58-year-old patient reported an industrial injury on 8/13/2004 to the neck and lower back during the performance of his normal job duties when a dumpster lid fell down on his head.

The clinical narrative dated 10/15/2011 by Dr. [REDACTED] reported that the patient complained of back pain that radiated into the BLEs. The patient is taking OxyContin 20 mg q 8 hours and Norco 3-4 per day. The objective findings on examination were "hemipelvis are level; TTP right paravertebral musculature; moderate spasms; no SI tenderness; ROM restricted; toe and heel walking intact". There was no documented diagnosis other than back pain. The treatment plan included a MRI of the lumbar spine.

The faxed request for authorization from Dr. [REDACTED] was dated 10/24/2011 and requested a MRI of the lumbar spine.

The clinical narrative dated 12/22/2012 by [REDACTED] MD reported an increase in back pain radiating to the BLEs due to cold weather. The patient was noted to be taking OxyContin 20 mg q 6 hrs; Norco qid; Soma; Protonix; and Viagra. The objective findings on examination were limited to "TTP pelvic brim; bilateral SI notch tenderness; ROM lumbar spine diminished; extension and rotation caused pain; toe and heel walking were intact". The diagnosis was cervical/lumbar spine sprain/strain. The treatment plan included a request for the cervical spine records; continue medications; HEP; and a TENS/IF unit to avoid increase in narcotics use.

The peer review UR determination dated 1/17/2013 by [REDACTED] noncertified the request for an IF stimulator.

The clinical narrative dated 7/29/2013 by Dr. [REDACTED] reported that the patient continued to complain of lower back pain radiating to the bilateral lower extremities. The pain was noted to be 80% to the back and 20% to the lower extremities. The patient was documented to be taking OxyContin, soma, Motrin, Protonix, Norco, and Viagra. The objective findings on examination included "moderate lumbar spine guarding; tenderness at the pelvic brim bilaterally with left greater than the right; bilateral sciatic notch tenderness to my: pain with range of motion; documented restricted range of motion; gait is normal". The diagnosis was chronic low back pain with radicular symptoms persisting. The treatment plan included a gym membership at the local gym facility so that he could do aquatic as well as land based exercise to help control his lumbar spine symptoms and work with the pain gait program with Dr. [REDACTED]

The RFA dated 7/8/2013 by [REDACTED] M.D. requested a six month gym membership for the diagnosis of sprain of neck and lumbosacral neuritis. The request was for a local gym facility with aquatic and land based exercises.

The records include a June 10, 2013 psychological status report submitted by Dr. [REDACTED]. His initial psychotherapy session was on September 20, 2010 and his most recent session was on June 5, 2013. He reported depression secondary to pain associated with an industrial injury. He complained of initial, continuity and terminal disturbances of sleep and difficulty breathing. He reported lethargy, daytime somnolence, loss of motivation, increased irritability, low self regard, and very low tolerance for minor frustrations. He reported chronic pain to the lumbar spine with radiation to the legs and feet bilaterally. He denied a prior personal history of psychiatric treatment or disorders. Prescribed medications included OxyContin, Ambien, and Norco.

Twelve to 16 individual psychotherapy sessions were requested to accomplish treatment goals using cognitive behavioral and cognitive restructuring modalities: pain management, remission of depression and anxiety, and obtain restorative sleep patterns. A request was made for retrospective authorization of the 17 sessions between February 13, 2013 and his last session on June 5, 2013. He was to continue psychotropic medication therapy for depression, anxiety, and sleep disturbance.

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:

- Applications (2) for Independent Medical Review
- Utilization Review Documentation by [REDACTED] (dated 7/9/13 and 7/11/13)
- Primary Treating Physician Progress Reports by [REDACTED] M.D., Inc. (dated 10/18/12 to 6/29/13)
- Request for Authorization by [REDACTED], M.D. (dated 7/8/13)
- Psychological Status Report by [REDACTED], Ph.D. (dated 6/10/13)
- American College of Occupational and Environmental Medicine (ACOEM), 2nd Edition, (2004), pages 299-309
- Official Disability Guidelines (ODG) – Low Back Chapter (PT, Exercise, Aerobic Exercise, Gym Memberships); Cognitive Behavioral Therapy, CBT for Depression
- Chronic Pain Medical Treatment Guidelines (2009), pages 23, 98-99, 101-102

1) Regarding the request for a 6 month gym membership:

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

The Claims Administrator based its decision on the following sections of the California Medical Treatment Utilization Schedule (MTUS): the American College of Occupational and Environmental Medicine (ACOEM) Guidelines, 2nd Edition, (2004), pages 15-16, 58-59, and 299-309; and Chronic Pain Medical Treatment Guidelines (2009), pages 98-99. The Claims Administrator also cited the Official Disability Guidelines (ODG) – Low Back Chapter, Physical Therapy, Exercise, Aerobic Exercise, and Gym Memberships sections and ACOEM (2008 update), page 94, which are medical treatment guidelines that are not part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer determined that the MTUS does not address the requested treatment. The Expert Reviewer relied on the ODG – Low Back Chapter, Gym Memberships section, which is a medical treatment guideline that is not part of the MTUS.

Rationale for the Decision:

The employee was injured on 8/24/2005 and has experienced chronic neck pain, chronic low back pain, attendant psychological stress, depression, and mood disorder. Treatment noted in the medical records submitted and reviewed included the following: medications (OxyContin, Soma, Motrin, Protonix, Norco, and Viagra); care from various providers in various specialties; unspecified amounts of prior psychotherapy; a TENS unit; psychotropic medications; and extensive periods of time off of work. A request was submitted for a 6 month gym membership.

The MTUS does not specifically address this topic. The ODG indicates that gym memberships are not recommended as a medical prescription unless there is evidence that a home exercise program has been ineffective and there is need for specialized equipment. In this case, the records submitted did not include a stated rationale for specialized equipment. The records do not clearly state or suggest that the employee has failed an independent home exercise program. The guideline criteria are not met. The request for a 6 month gym membership is not medically necessary and appropriate.

2) Regarding the request for 17 psychotherapy sessions:

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

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines (2009), pages 23 and 101-102, which are part of the California Medical Treatment Utilization Schedule (MTUS). The Claims Administrator also cited the Official Disability Guidelines (ODG) – Mental & Stress Chapter, Cognitive Behavioral Therapy (CBT) section and CBT for Depression section. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer relied on the American College of

Occupational and Environmental Medicine (ACOEM) Guidelines, 2nd Edition (2004) – Chapter 15, which is part of the MTUS.

Rationale for the Decision:

The employee was injured on 8/24/2005 and has experienced chronic neck pain, chronic low back pain, attendant psychological stress, depression, and mood disorder. Treatment noted in the medical records submitted and reviewed included the following: medications (OxyContin, Soma, Motrin, Protonix, Norco, and Viagra); care from various providers in various specialties; unspecified amounts of prior psychotherapy; a TENS unit; psychotropic medications; and extensive periods of time off of work. A request was submitted for 17 psychotherapy sessions.

The ACOEM guidelines indicate that the ultimate goal of therapy is to preserve the patient's function at work and in social relationships. The records submitted and reviewed indicate the employee has had extensive prior psychotherapy since the injury, to which the employee has failed to respond favorably. The employee has seemingly failed to return to work and has had ongoing issues with psychological stress, depression, and mood disorder. Continuing a previously tried and failed treatment modality such as psychotherapy is not advised and not compatible with the concept of functional improvement as defined in MTUS section 9792.20f. The documentation submitted does not support the request. The request for 17 psychotherapy sessions 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;

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