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**Notice of Independent Medical Review Determination**

Dated: 10/2/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee: [REDACTED]  
Claim Number: [REDACTED]  
Date of UR Decision: 7/8/2013  
Date of Injury: 8/19/2010  
IMR Application Received: 7/19/2013  
MAXIMUS Case Number: CM13-0002119

- 1) MAXIMUS Federal Services, Inc. has determined the request for physical therapy 2 times a week for 6 weeks **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for a weight loss program **is not medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/19/2013 disputing the Utilization Review Denial dated 7/8/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/24/2013. 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 physical therapy 2 times a week for 6 weeks **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for a weight loss program **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 Physical Medicine and Rehabilitation 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 8, 2013:

“BRIEF CLINICAL SUMMARY: The patient is a 69 year-old male, employed as a district sales representative. The date of hire is not noted. The date of injury was August 19, 2010. The mechanism of injury occurred while carrying boxes full of scratch lottery tickets. The accepted injury is to the lower back area, neck, right knee, and hand. The current diagnoses are: Chondromalacia patellae; hypertension. Treatment has included: 1/11/13 lumbar epidural injection; diagnostics; medications.

In the most recent report on file, dated June 5, 2013, Dr. [REDACTED] notes: Subjective: Patient has increased lower back pain at the SI joint, pain in the left lower extremity, right lower extremity, bilateral hands, and bilateral wrists. His activity level has decreased. He has tried acupuncture, which was effective for control of pain. Acupuncture three months ago helped improve flexibility, range of motion, and reduced pain level. Objective: Straight leg raise is positive on both sides at 45 degrees. There is spasm and tenderness noted in the lumbar spine. FABER test is positive. Plan: Physical therapy, acupuncture to back and legs, thighs, and hip area. Patient has a positive polysomnogram with long periods of sleep apnea and needs CPAP machine to prevent a stroke. Patient has gained 40-pounds since the injury. BMI is 33.14. Weight is 231-pounds. Height is 5'10".

### **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 (received 7/19/2013)
- Utilization Review Determination from [REDACTED] (dated 7/8/2013)
- Medical Records provided by the claims administrator
- Medical Treatment Utilization Schedule

### **1) Regarding the request for physical therapy 2 times a week for 6 weeks:**

#### 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), page 49, which is part of the California Medical Treatment Utilization Schedule (MTUS). The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer relied on the Chronic Pain Medical Treatment Guidelines (2009), pages 98-99, which are part of the MTUS.

#### Rationale for the Decision:

The employee was injured on 8/19/10 and experienced injuries to the low back, neck, right knee, and heart. Diagnoses include chondromalacia patellae and hypertension. A report dated 6/5/2013 states the employee gained 40 pounds since the injury, while a different report dated 5/14/2013 states the employee gained 30 pounds. Treatment has included lumbar epidural injection, diagnostics, and medications. The provider recommended use of CPAP for obstructive sleep apnea and discussed a diet plan but did not recommend a formal weight loss program. A request was submitted for physical therapy 2 times a week for 6 weeks.

The MTUS Chronic Pain Medical Treatment Guidelines recommend 8-10 sessions of physical therapy for unspecified muscle or nerve pain. The records submitted and reviewed indicate the employee had approval for physical therapy in the past but was unable to attend some of the visits due to pain. The request for 12 sessions of physical therapy exceeds the guideline recommendations. The request for physical therapy 2 times a week for 6 weeks is not medically necessary and appropriate.

### **2) Regarding the request for a weight loss program:**

#### Medical Treatment Guideline(s) 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 provider did not dispute the lack of guidelines used by the Claims Administrator. The Expert Reviewer determined the California Medical Treatment Utilization Schedule (MTUS) does not address the issue in dispute. The Expert Reviewer was unable to find a medical treatment guideline, nationally-recognized professional standard, or expert opinion that addresses the

issue at dispute. The Expert Reviewer based his/her decision on generally accepted standards of medical practice.

Rationale for the Decision:

The employee was injured on 8/19/10 and experienced injuries to the low back, neck, right knee, and heart. Diagnoses include chondromalacia patellae and hypertension. A report dated 6/5/2013 states the employee gained 40 pounds since the injury, while a different report dated 5/14/2013 states the employee gained 30 pounds. Treatment has included lumbar epidural injection, diagnostics, and medications. The provider recommended use of CPAP for obstructive sleep apnea and discussed a diet plan but did not recommend a formal weight loss program. A request was submitted for a weight loss program.

There is evidence that weight loss can help the obstructive sleep apnea. One provider reports a 30 pound weight gain since the injury and another noted a 40 pound weight gain. Overall, the records submitted and reviewed do not document significant weight gain since 7/30/2012. Although losing weight would be beneficial for the employee's obstructive sleep apnea, the weight loss program cannot be recommended as being in accordance with any evidence-based guideline as there is no documentation about the type of weight loss program. The request for a weight loss program 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  
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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.