

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

P.O. Box 138009

Sacramento, CA 95813-8009

(855) 865-8873 Fax: (916) 605-4270



Notice of Independent Medical Review Determination

Dated: 10/22/2013

[REDACTED]

[REDACTED]

Employee:	[REDACTED]
Claim Number:	[REDACTED]
Date of UR Decision:	7/19/2013
Date of Injury:	5/21/2009
IMR Application Received:	7/24/2013
MAXIMUS Case Number:	CM13-0003022

- 1) MAXIMUS Federal Services, Inc. has determined the request for a gym membership with a pool for six months **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/24/2013 disputing the Utilization Review Denial dated 7/19/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/29/2013. 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 a gym membership with a pool for six months **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 19, 2013:

"This 41-year-old male sustained an Injury on 5/21/09. The mechanism of Injury occurred when the patient's right foot slipped while walking and was caught against a concrete step-off. The diagnoses Included right partial foot drop, low back pain, and right ankle pain. Treatment had Included surgery on 9/18/09 with right peroneal nerve repair, right knee arthroscopy in 2010, and additional right knee surgery on 1/19/12. Evaluation by Dr. [REDACTED] (pain management) on 6/27/13, reported subjective complaints of right lower extremity pain and low back pain. Objective findings recorded "no significant change." Work status was modified duty. The treatment plan Included continued use of medications (Norco, Colace, Zanaflex, and Ambien) and 6 months of membership at a gym with a pool."

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 07/24/2013)
- Utilization Review Determination from [REDACTED] (dated 07/19/2013)
- Employee medical records from [REDACTED]
- Medical Treatment Utilization Schedule (MTUS)

1) **Regarding the request a gym membership with a pool for six months**
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), Low Back Chapter, Gym memberships, which is a Medical Treatment Guideline (MTG) not part of MTUS. The Expert Reviewer found no section of MTUS as applicable and relevant for the issue at dispute. The Expert Reviewer found the guidelines used by the Claims Administrator applicable and relevant to the issue at dispute.

Rationale for the Decision:

The employee sustained an injury on 5/21/2009. The submitted and reviewed medical records indicate diagnoses included right partial foot drop, low back pain, and right ankle pain. Treatment had Included surgery on 9/18/09 with right peroneal nerve repair, right knee arthroscopy in 2010, and additional right knee surgery on 1/19/12. The records indicate the treatment plan included continued use of medications (Norco, Colace, Zanaflex, and Ambien) and a request for a 6 month membership at a gym with a pool.

The Official Disability Guidelines indicate that a gym membership is “not recommended as a medical prescription unless a documented home exercise program with periodic assessment and revision has not been effective, and there is a need for equipment. Plus, treatment needs to be monitored and administered by medical professionals. While an individual exercise program is of course recommended, more elaborate personal care, where outcomes are not monitored by a health professional such as gym memberships or advanced home exercise, may not be covered under this guideline although temporary transitional exercise programs may be appropriate for patients who need more supervision.” Guidelines further indicate that “with unsupervised programs, there is no information flow back to the provider so that he or she can make changes in the prescription, and there may be risk of further injury to the patient. Gym memberships, health clubs, swimming pools, athletic clubs, etc. would not generally be considered medical treatment and therefore are not covered under these guidelines”. It was noted then that employee was to undergo physical therapy 2 times a week times 4 weeks for further range of motion and right ankle strength, but the records do not document efficacy of these sessions. The request for a 6 month gym membership **is not medically necessary or 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.