
Notice of Independent Medical Review Determination

Dated: 10/14/2013

[REDACTED]

[REDACTED]

[REDACTED]

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 7/12/2013
Date of Injury: 4/24/1996
IMR Application Received: 7/25/2013
MAXIMUS Case Number: CM13-0003223

- 1) MAXIMUS Federal Services, Inc. has determined the request for a bilateral transforaminal L5-S1 epidural steroid injection **is medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for a urine drug screen **is medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for Prilosec **is medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for EMG/NCV of the bilateral lower extremities **is medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for a lumbar corset **is medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/25/2013 disputing the Utilization Review Denial dated 7/12/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/31/2013. 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 bilateral transforaminal L5-S1 epidural steroid injection **is medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for a urine drug screen **is medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for Prilosec **is medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for an EMG/NCV of the bilateral extremities **is medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for a lumbar corset **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 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 12, 2013.

According to the medical records, the patient is a female who sustained an industrial injury on April 24, 1996. She is status post lumbar decompression posterior spinal fusion.

A progress report submitted on May 15, 2013 by doctors [REDACTED] stated that the patient is status post lumbar decompression and posterior spinal fusion procedure and was doing well until a fall, which had re-injured her low back. Her pain is better, but she continues to have dysesthetic pain in her lower extremities which she states is providing most of her discomfort at this point. Activities and movement aggravate her back. A prior request for a lumbar MRI remains pending. Physical examination continues to be unchanged from the prior exam. She continues to complain of severe radicular pain in her lower extremities that radiates along an L4, L5 and S1 distribution. Additionally, she has some back pain, but this is much improved from before. Her impression includes lumbago and lumbar radiculopathy. The treatment plan recommended that she return to the clinic once the MRI of the lumbar spine is completed. She will require 6 weeks of physical therapy at a frequency of 4 times a week rather than the currently authorized 1 time a week to help her optimally recover. A corset is recommended given her pain during flexion and extension. Her medications have helped and should be continued. This includes Voltaren gel and Prilosec as well as topical compound ointment, which includes gabapentin and ketamine. Finally, the patient is recommended a pain management consultation as well as an EMG/NCV of the bilateral upper and lower extremities due to her continued symptoms.

A prior peer review completed on June 18, 2013 non-certified the request for a lumbar corset, on reconsideration based on the following rationale, "It is noted that the patient has pain with flexion and extension; however, this does not demonstrate that the patient has instability as seen on x-ray, such as a compression fracture, spondyloolsthesis or post operative treatment. Given that lumbar corsettees are not recommended for prevention and the patient does not meet the criteria for which a corsettee is indicated, the requested lumbar corsettee is not substantiated."

A prior peer review completed on June 18, 2013 non-certified the request for an EMG/NCV of the bilateral lower extremities, on reconsideration based on the following rationale, "The records noted that the patient was recently authorized an MRI of the lumbar spine. Prior to requesting additional diagnostic studies, it would be appropriate for the patient to undergo the requested low back imaging study already authorized as well as a follow up with the ordering physician to go over the MRI report prior to requesting additional

diagnostic studies. The records noted that the patient has not undergone the certified low back MRI as of today."

An appeal is being made at this time.

A progress report submitted on July 3, 2013 by Dr. [REDACTED] stated that the patient was doing well following a lumbar decompression and posterior spinal fusion procedure until she fell and re-injured her low back. Her back pain is better, but she continues to have pain that radiates into her groin area and lower extremities. A CT scan of the lumbar spine was requested on the last visit and showed that the hardware was in place. She does have an L5 7-mm anterolisthesis with pseudoarthrosis. This has a bridging annulus pressing on the thecal sac and extending into the proximal intervertebral foramina, possibly compressing the exiting L5 nerve roots. She states that her pain is alleviated with sitting and aggravated with activities. Physical examination showed that the patient's pain is isolated to her lower lumbosacral area with pain that radiates in her bilateral groin. She denies any pain that radiates down her legs. She has a negative Fortin finger test and 5/5 motor strength in her lower extremities. Her impression is L5-S1 anterolisthesis, 7mm and possible L2 radiculopathy into her groin area. The treatment plan recommends authorization for bilateral transforaminal L5-S1 epidural steroid injections, a lumbar corset, bilateral lower extremity EMG/NCV for work up of lower extremity radiculopathy, Ultram ER and Prilosec.

There appear to be inconsistencies in the July 3, 2013 progress report. The report initially states that the patient continues to have pain that radiates into her groin area and lower extremities; however, later in the report, it was noted that the patient denies any pain that radiates down her legs. Moreover, an epidural steroid injection is not indicated without evidence of radiculopathy on examination. The July 3, 2013 medical report related that the patient had 5/5 motor strength. Without evidence that the patient demonstrates positive objective neurological deficits in a myotomal or dermatomal distribution at L5-S1, the request for an epidural steroid injection at that level is not warranted. Prior to authorizing an epidural steroid injection, the inconsistencies need to be clarified and radiculopathy must be demonstrated on examination. This did not appear to be the case. As such, the requested injection is not warranted. Moreover, the May 15, 2013 progress report related that the patient was currently undergoing physical therapy. Prior to attempting an epidural steroid injection, it would be appropriate to observe the outcome of the therapy given. The guidelines do not recommend an epidural steroid injection without first attempting and failing to improve with a course of conservative therapy for a period of 4-6 weeks. Therefore, my recommendation is to NON-CERTIFY the request for bilateral transforaminal L5-S1 ESI.

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 7/25/13)
- Utilization Review Determination from [REDACTED] (dated 7/12/13)
- Medical Records from Claims Administrator
- Medical Treatment Utilization Schedule (MTUS)

1) Regarding the request for a bilateral transforaminal L5-S1 epidural steroid injection:

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), Epidural steroid injections (ESIs), no page cited, of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the section of the MTUS guidelines used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee injured the low back on 4/24/1996. The submitted and reviewed medical records indicated that the employee has had physical therapy, MRI, CT, and is status post-lumbar decompression posterior spinal fusion. A 5/20/2013 report indicated that the employee had fallen one week prior and had severe back pain radiating down both legs. The most recent report, dated 6/5/2013, indicated that the employee was having symptoms down the right leg in the L5 distribution with decreased sensation and light touch to pinprick in both legs. A request was made for a bilateral transforaminal L5-S1 epidural steroid injection, urine drug test, Prilosec, an EMG/NCV of the bilateral lower extremities, and a lumbar corset.

The MTUS Chronic Pain Guidelines recommend epidural steroid injections as an option for treatment of radicular pain when documented by corroborative studies such as electrodiagnostic studies and/or imaging studies. According to the submitted records, an MRI taken 5/20/2013 showed severe spinal stenosis at L5-S1 and a CT on 6/21/13, revealed an unfused L5/S1, 7 millimeter listhesis with bridging annulus impressing the thecal sac and extending into the proximal intervertebral foramina and compromising the exiting L5 roots bilaterally. The criteria for epidural steroid injections have been met. The request for a bilateral transforaminal L5-S1 epidural steroid injection is medically necessary and appropriate.

2) Regarding the request for a urine drug screen:

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), Urine drug screen, Opioids criteria for use, no page cited, a part of the MTUS, and the Official Disability Guidelines (ODG), Current Version, Pain Chapter, Urine drug testing (UDT), a medical treatment guideline (MTG) not part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the Chronic Pain Medical Treatment Guidelines, (2009), Urine drug screen, Opioids criteria for use, page 43, of the MTUS, relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee injured the low back on 4/24/1996. The employee has had physical therapy, MRI, CT, and is status post-lumbar decompression posterior spinal fusion. A 5/20/2013 report indicated that the employee had fallen one week prior and had severe back pain radiating down both legs. The most recent report, dated 6/5/2013, indicated that the employee was having symptoms down the right leg in the L5 distribution with decreased sensation and light touch to pinprick in both legs. A request was made for a bilateral transforaminal L5-S1 epidural steroid injection, urine drug test, Prilosec, an EMG/NCV of the bilateral lower extremities, and a lumbar corset.

The MTUS Chronic Pain Medical Treatment Guidelines, page 43, indicates that urine drug tests are recommended as an option to assess for the use of illegal

drugs. The submitted records indicate that the employee is taking prescribed opioid medications and the most recent urine drug test was dated 2/20/2013. The guidelines allow for two per year and the frequency of the requested screen test is in accordance with guideline recommendations. The request for a urine drug screen is medically necessary and appropriate.

3) Regarding the request for Prilosec:

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), NSAIDs, GI symptoms, & cardiovascular risk, no page cited, part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the Chronic Pain Medical Treatment Guidelines (2009) NSAIDs, GI symptoms, & cardiovascular risk, page 68-69, part of the MTUS, relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee injured the low back on 4/24/1996. The employee has had physical therapy, MRI, CT, and is status post-lumbar decompression posterior spinal fusion. A 5/20/2013 report indicated that the employee had fallen one week prior and had severe back pain radiating down both legs. The most recent report, dated 6/5/2013, indicated that the employee was having symptoms down the right leg in the L5 distribution with decreased sensation and light touch to pinprick in both legs. A request was made for a bilateral transforaminal L5-S1 epidural steroid injection, urine drug test, Prilosec, an EMG/NCV of the bilateral lower extremities, and a lumbar corset.

MTUS Chronic Pain Guidelines, page 68-69, recommend taking a Proton Pump Inhibitor (PPI) such as Prilosec, for dyspepsia when taking NSAIDs. The medical records indicate that the employee was taking Voltaren, an NSAID, which was causing dyspepsia. The criteria for prescribing Prilosec are met. The request for Prilosec is medically necessary and appropriate.

4) Regarding the request for an EMG/NCV of the bilateral lower extremities:

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

The Claims Administrator based its decision on the American College of Occupational and Environmental Medicine (ACOEM) guidelines (2004), no section cited, pages 303 and 309, part of the MTUS, and the Official Disability Guidelines (ODG) Current Version, Low Back Chapter, EMGs (electromyography), a medical treatment guideline (MTG) not part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), Special Studies and Diagnostic and Treatment Considerations, page 303, relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee injured the low back on 4/24/1996. The employee has had physical therapy, MRI, CT, and is status post-lumbar decompression posterior spinal fusion. A 5/20/2013 report indicated that the employee had fallen one week prior and had severe back pain radiating down both legs. The most recent report, dated 6/5/2013, indicated that the employee was having symptoms down the right leg in the L5 distribution with decreased sensation and light touch to pinprick in both legs. A request was made for a bilateral transforaminal L5-S1 epidural steroid injection, urine drug test, Prilosec, an EMG/NCV of the bilateral lower extremities, and a lumbar corset.

The MTUS ACOEM guidelines indicate that electromyography (EMG), including H-flex tests, may be useful to identify subtle, focal neurologic dysfunction in patients with low back symptoms lasting more than three or four weeks. The submitted records indicate that the employee has had symptoms more than eight weeks and L4 and S1 radiculopathy is not clinically obvious. The criteria for EMG/NCV have been established. The request for EMG/NCV is medically necessary and appropriate.

5) Regarding the request for a lumbar corset:

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

The Claims Administrator based its decision on the ACOEM Practice Guidelines, 2nd Edition (2004), section not cited, page 301, part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer found the Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), page 301, part of the MTUS, relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee injured the low back on 4/24/1996. The employee has had physical therapy, MRI, CT, and is status post-lumbar decompression posterior spinal fusion. A 5/20/2013 report indicated that the employee had fallen one week prior and had severe back pain radiating down both legs. The most recent report, dated 6/5/2013, indicated that the employee was having symptoms down the right leg in the L5 distribution with decreased sensation and light touch to pinprick in both legs. A request was made for a bilateral transforaminal L5-S1 epidural steroid injection, urine drug test, Prilosec, an EMG/NCV of the bilateral lower extremities, and a lumbar corset.

The MTUS ACOEM guidelines indicate that lumbar supports have not been shown to have lasting benefits beyond the acute phase. The submitted records indicated that the employee had fallen and re-aggravated the low back condition. The treating provider recommended a lumbar corset for treatment of back pain the employee was having with flexion and extension. This is in accordance with MTUS guidelines for treatment in the acute phase. The request for a lumbar corset 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, 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.