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**Notice of Independent Medical Review Determination**

Dated: 11/15/2013

[REDACTED]

[REDACTED]

Employee: [REDACTED]  
Claim Number: [REDACTED]  
Date of UR Decision: 7/15/2013  
Date of Injury: 5/26/1991  
IMR Application Received: 7/31/2013  
MAXIMUS Case Number: CM13-0005100

- 1) MAXIMUS Federal Services, Inc. has determined the request for Provigil 400mg **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for Protonix 40mg **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for OxyContin 20mg **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for Xanax 1 mg **is not medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for Flexeril 10mg **is not medically necessary and appropriate.**
- 6) MAXIMUS Federal Services, Inc. has determined the request for Lidoderm 5% topical patch, 2 daily **is not medically necessary and appropriate**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/31/2013 disputing the Utilization Review Denial dated 7/15/2013. A Notice of Assignment and Request for Information was provided to the above parties on 8/12/2013. 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 Provigil 400mg **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for Protonix 40mg **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for OxyContin 20mg **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for Xanax 1 mg **is not medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for Flexeril 10mg **is not medically necessary and appropriate.**
- 6) MAXIMUS Federal Services, Inc. has determined the request for Lidoderm 5% topical patch, 2 daily **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.

### **Expert Reviewer Case Summary:**

The patient is a 62-year-old female who reported an injury on 05/26/1991. The patient is noted to have been diagnosed with fibromyalgia. She is reported to have undergone lumbar surgery on an unstated date and is reported to have been also diagnosed with postlaminectomy pain syndrome with chronic lumbar radiculitis. She is also noted to have undergone a right knee arthroscopic surgery on an unstated date and to receive occasional series of Synvisc injections to her right knee with good reduction. A clinical note dated 07/02/2013 noted the patient to have had some improvement from 8 sessions of pool therapy, with some improvement in function and overall wellbeing.

### **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 of Independent Medical Review
- Utilization Review Determination Sedgwick
- Medical Records from Claims Administrator
- Medical Treatment Utilization Schedule (MTUS)

#### **1) Regarding the request for Provigil 400mg :**

##### Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Official Disability Guidelines (ODG), Modafinil (Provigil), which is not part of the MTUS.

The Expert Reviewer found that no section of the MTUS was applicable. Per the Strength of Evidence hierarchy established by the California Department of Industrial Relations, Division of Workers' Compensation, the Expert Reviewer based his/her decision on the Official Disability Guidelines (ODG), Pain (Chronic) Chapter, Provigil® (modafinil).

##### Rationale for the Decision:

The Official Disability Guidelines state that Provigil is approved by FDA for treatment of narcolepsy, and indicate prescribers using Provigil for sedation effects of opioids should consider reducing the dose of opiates before adding stimulants such as Provigil. Review of the submitted medical records note that the employee has been diagnosed with fibromyalgia, postlaminectomy syndrome of the lumbar spine with chronic lumbar radiculopathy, and chronic pain syndrome. There is no documented evidence that the employee has been diagnosed with narcolepsy and there is no indication that a reduction of the opioid medication was made prior to adding Provigil. **The request for Provigil 400mg is not medically necessary and appropriate.**

#### **2) Regarding the request for Protonix 40mg :**

##### Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator did not cite any evidence based criteria for its decision.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, NSAIDs, GI symptoms & cardiovascular risk, pages 68-69, which is part of the MTUS.

##### Rationale for the Decision:

Chronic Pain guidelines state "that clinicians should weigh the indications for NSAIDs against both GI and cardiovascular risk factors, and need to determine if

a patient is at risk for gastrointestinal events, with an age over 65, history of peptic ulcers, GI bleeding, perforation, and concurrent use of aspirin, corticosteroids, and/or an anticoagulant, or high dose multiple NSAIDs.” Review of the submitted medical records only note that the employee has been prescribed 800 mg of Motrin once a day. There is no documentation that there is a history of peptic ulcer, GI bleeding, or perforation, nor is there any indication that the employee has gastrointestinal upset with the use of the NSAIDs. **The request for Protonix 40mg is not medically necessary and appropriate.**

**3) Regarding the request for OxyContin 20mg :**

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines, Criteria for use of Opioids, pages 76-80, which is part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Opioids, On-Going management and Opioids for chronic pain, page 78 & 80, which is part of the MTUS.

Rationale for the Decision:

The Chronic Pain guidelines state “there should be ongoing review and documentation of pain relief, functional status, appropriate medication use and side effects, and notes that pain assessment should include current pain, least reported pain over the period since the last assessment, average pain, the intensity of pain after taking the opioid, how long it takes for pain relief, how long the pain relief lasts, and increased level of function or improved quality of life with the use of the pain medication.” The patient is noted to have been weaned off the OxyContin as of 07/02/2013 without significant withdrawal symptoms, but she reported increasing pain and was hoping to be placed back on the OxyContin. Given the patient’s successful weaning from OxyContin and placement on Nucynta ER 150 mg twice a day, the need for a prescription for OxyContin would not be indicated and would not meet guideline recommendations as the patient has previously treated with long term usage of OxyContin without documentation of effective relief of ongoing pain or improved function, and with side effects including sedation

**4) Regarding the request for Xanax 1 mg :**

Section of the Medical Treatment Utilization Schedule 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), 2<sup>nd</sup> Edition, (2004), Chapter 3, which is part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Benzodiazepines, page 24, which is part of the MTUS.

Rationale for the Decision:

Review of the submitted medical records indicates that the employee has symptoms of anxiety and nervousness related to changes in her discontinuation of her OxyContin and placement on Nucynta. Xanax is a benzodiazepine which is not recommended by the Chronic Pain guidelines for long term use because long term efficacy is unproven and there is a risk of dependency. Most guidelines limit the use to 4 weeks; the medical records indicate that the employee has been using this medication 03/2013. **The request for Xanax 1mg is not medically necessary and appropriate.**

**5) Regarding the request for Flexeril 10mg :**

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines, Cyclobenzaprine (Flexeril®), pages 41-42, which is part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Muscle relaxants (for pain), pages 46-47, which is part of the MTUS.

Rationale for the Decision:

The Chronic Pain Guidelines state that “non-sedating muscle relaxants are with caution as a second line option for short term treatment of acute exacerbations in patients with low back pain, and recommend use of cyclobenzaprine be limited to 2 to 3 weeks.” The review of submitted medical records documents that the employee appears to be taking the Flexeril on an ongoing, routine, long term basis. **The request for Flexeril 10mg is not medically necessary and appropriate.**

**6) Regarding the request for Lidoderm 5% topical patch, 2 daily :**

Section of the Medical Treatment Utilization Schedule Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines, Topical Analgesics, pages 111-113 and CA MTUS Medical Treatment Guidelines, Lidoderm® (lidocaine patch), pages 56-57, which are part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Topical Analgesics, page 112, which is part of the MTUS.

Rationale for the Decision:

The Chronic Pain guidelines recommend the use of Lidoderm patches for localized neuropathic peripheral pain after there has been evidence of a trial of first line therapy, such as tricyclic or SNRI antidepressants, or antiepileptic drugs (AEDs), such as Gabapentin or Lyrica. A review of the submitted medical records indicated that the employee is taking Cymbalta 60 mg 2 times a day for treatment

of her fibromyalgia, and possibly for treatment of depression; however, there is no documentation of a trial of Lyrica, including a low dose tricyclic antidepressant. There is no documentation on physical exam of objective findings of radiculopathy. **The request for Lidoderm 5% topical patch, 2 daily 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,

Paul Manchester, MD, MPH  
Medical Director

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