

**MAXIMUS FEDERAL SERVICES, INC.**

Independent Medical Review

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**Notice of Independent Medical Review Determination**

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Dated: 11/25/2013

[REDACTED]

[REDACTED]

Employee:

[REDACTED]

[REDACTED]

Date of UR Decision:

7/25/2013

Date of Injury:

3/11/2011

IMR Application Received:

8/2/2013

MAXIMUS Case Number:

CM13-0006077

- 1) MAXIMUS Federal Services, Inc. has determined the request for Arthrodesis at L4-L5 **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for discogram at L3-L4 and L4-5 **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for CT scan of lumbar spine **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for Medrox Patch **is not medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for Naproxen 250mg **is not medically necessary and appropriate.**
- 6) MAXIMUS Federal Services, Inc. has determined the request for Tizanidine 4mg **is not medically necessary and appropriate.**
- 7) MAXIMUS Federal Services, Inc. has determined the request for Prilosec 20mg **is not medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/2/2013 disputing the Utilization Review Denial dated 7/25/2013. A Notice of Assignment and Request for Information was provided to the above parties on 8/26/2013. 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 Arthrodesis at L4-L5 **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for discogram at L3-L4 and L4-5 **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for CT scan of lumbar spine **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for Medrox Patch **is not medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for Naproxen 250mg **is not medically necessary and appropriate.**
- 6) MAXIMUS Federal Services, Inc. has determined the request for Tizanidine 4mg **is not medically necessary and appropriate.**
- 7) MAXIMUS Federal Services, Inc. has determined the request for Prilosec 20mg **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 Orthopedic Surgery, 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:**

This claimant is a 60-year-old female with complaints of low back pain. On 06/29/2012 she was seen for a Primary Treating Physician's Progress Report submitted by [REDACTED], MD. It was noted then that she had complaints of low back pain. She had an antalgic gait to the left and decreased range of motion of the lumbar spine. She had left paraspinal tenderness to the lumbar spine, and straight leg raise caused back pain. The assessment included L4-5 discogenic back pain with radiculopathy, left hip trochanteric bursitis and stress. On 09/12/2012, she was taken to surgery for a lumbar transforaminal epidural steroid injection at L4-5 on the left under fluoroscopic control. On 10/07/2012, a Medication Summary Report indicates that she was positive for tramadol and its metabolites. On 02/19/2013, she was seen for a pain management followup. At that time, she still reported pain to the lumbar spine and stated that she had completed all of her sessions to physical therapy and did not want any more injections.

She had gastrointestinal upset occasionally, but not frequently. Upon examination, she had tenderness over the L4-5 and L5-S1 areas bilaterally with muscle spasms being noted. On 06/03/2013, she was seen back in clinic by [REDACTED], MD. At that time, she still complained of pain to her back, radiating down to her leg. She stated that her leg was giving out on her. She was using a cane at that time. Physical exam revealed an antalgic gait to the right with decreased range of motion to the lumbosacral spine. She also had right paraspinal tenderness to the lumbar spine, and right sciatic notch tenderness was noted. Straight leg raise caused back pain. The MRI was reviewed, showing a disc protrusion at L4-5 and disc desiccation at L2-3 and L3-4 and a 1 to 2 mm disc protrusion at L1-2. 07/09/2013, she returned to the pain management clinic for further evaluation. Upon physical examination, she walked with a cane with an antalgic gait and had range of motion of the lumbar spine that was moderately decreased. Straight leg raise was positive on the left, and sensation was decreased to light touch in the left lower extremity as compared to the right. Deep tendon reflexes were 1+ at both patellae. She had weakness in flexion and dorsiflexion of her left foot and flexion and extension of her left knee as compared to the right knee.

#### **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
- Medical Records from Claims Administrator
- Medical Treatment Utilization Schedule (MTUS)

#### **1) Regarding the request for Arthrodesis at L4-L5:**

##### 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 MTUS, Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12) pg 307, which is a part of the MTUS.

The Expert Reviewer based his/her decision Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12) pg. 305-307, surgical considerations, which is a part of the MTUS.

##### Rationale for the Decision:

This request is for an arthrodesis at L4-5. A review of the records indicate that this employee has low back pain with some components of radiculopathy as discussed in the clinical notes; however, imaging studies were not provided for this review to objectively document the pathology in the lumbar spine. California MTUS/ACOEM indicate that surgical indications would be clear clinical, imaging and electrophysiological evidence of a lesion that has been shown to benefit in both the short and long-term from surgical repair and failure of conservative treatment to resolve disabling radicular symptoms. The submitted records indicate that the employee had been given 1 epidural steroid injection but had refused other injections. The records discuss physical therapy, but no physical therapy notes were provided to objectively document conservative care in that

format. Guidelines further indicate that before a referral for surgery, clinicians should consider a referral for a psychological screening to improve surgical outcomes, possibly including standard tests. Guidelines further indicate that there is no scientific evidence of the long-term effectiveness of any form of surgical decompression or fusion for degenerative lumbar spondylosis compared with natural history, placebo or conservative treatment. The previous determination, dated 07/25/2013, indicated that radiculopathy is not an indication for a fusion absent instability at the level causing radicular signs and symptoms. It was noted that the employee was not a candidate for a lumbar fusion based on guidelines, and the request was non-certified. The additional records provided for this review also fail to indicate instability and/or pathology to the lumbar spine. As previously stated, the imaging studies were not provided for this review. The employee has not failed lesser measures as physical therapy records do not indicate that the employee has failed lesser measures objectively as past physical therapy notes were not provided for this review. The employee deferred further injections after the first injection. A psychological evaluation was not provided for this review. **The request for Arthrodesis at L4-L5 is not medically necessary and appropriate.**

**2) Regarding the request for discogram at L3-L4 and L4-5:**

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 MTUS, Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12) pg 304, which is a part of the MTUS and the Official Disability Guidelines, (ODG), Treatment Index, 11<sup>th</sup> Edition, Online Version, 2013, Low Back, Chapter on Discography which is not part of the MTUS.

The Expert Reviewer based his/her decision Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12) pg. 303-305, Special Studies and Diagnostic and Treatment Considerations, which is a part of the MTUS.

Rationale for the Decision:

This request is for a discogram at L3-4 and L4-5. California MTUS/ACOEM Guidelines indicate that recent studies on discography do not support its use as a pre-operative indication for either intradiscal electrothermal annuloplasty or fusion. The guidelines further state, "Despite the lack of strong medical evidence supporting it, discography is fairly common; and when considered, it should be reserved only for patients who meet the following criteria: back pain of at least 3 months' duration; failure of conservative treatment; satisfactory results from a detailed psychosocial assessment; and the patient is a candidate for surgery. A review of the records do not indicate that a psychosocial evaluation has been provided for this employee. The records do not indicate objectively that there has been a failure of conservative measures. The submitted records do not indicate that this employee is a candidate for surgery. **The request for discogram at L3-L4 and L4-5 is not medically necessary and appropriate.**

### 3) Regarding the request for CT scan of lumbar spine:

#### 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 MTUS, Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12) pg 303-304, which is a part of the MTUS.

The Expert Reviewer based his/her decision Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12) pg. 303-305, Special Studies and Diagnostic and Treatment Considerations, which is a part of the MTUS.

#### Rationale for the Decision:

A review of the records indicates that although it was not provided for this review, there apparently was an MRI which was performed for this employee. The rationale for performing a CT scan has not been demonstrated as California MTUS/ACOEM indicates that indiscriminate imaging will result in false positive findings, such as disc bulges, that are not the source of painful symptoms and do not warrant surgery. If physiological evidence indicates tissue insult or nerve impairment, the practitioner can discuss with a consultant as to the selection of an imaging test to define a potential cause, such as MRI or CT scan. The MRI has already been performed, and there is a lack of rationale for performing another CT scan at this time. **The request for a CT scan of the lumbar spine is not medically necessary and appropriate.**

### 4) Regarding the request for Medrox Patch:

#### 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 MTUS, Chronic Pain Medical Treatment Guidelines, PGS 111-113, which is a part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, pg. 111-113, topical analgesics and the Initial Approaches to Treatment (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 3) pg 33, Oral pharmaceuticals, which is a part of the MTUS.

#### Rationale for the Decision:

This request is for a Medrox dose patch. California MTUS/ACOEM, in the initial approaches to treatment, indicate that the physician should discuss the efficacy of medication for the particular condition, its side effects and any other relevant information with the patient to ensure proper use. The California MTUS Chronic Pain Medical Treatment Guidelines go further, indicating that this medication, which includes menthol, capsaicin and methyl salicylate, is one of those medications that is "largely experimental in use with few randomized, controlled trials to determine efficacy or safety." Guidelines indicate that capsaicin, which is one of the potential ingredients for this medication, is recommended only as an option in patients who have not responded to or are intolerant to other treatments. A review of the records do not indicate the overall efficacy of this medication and do not demonstrate that the employee has failed lesser

medications. **The request for Medrox Patch is not medically necessary and appropriate.**

**5) Regarding the request for Naproxen 250mg:**

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 MTUS, Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12), NSAIDS, which is a part of the MTUS.

The Expert Reviewer based his decision on the Chronic Pain Medical Treatment Guidelines, Section on NSAIDS, pgs 67-73 and the Initial Approaches to Treatment (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 3) pg. 33, Oral Pharmaceuticals, which is a part of the MTUS.

Rationale for the Decision:

This request is for naproxen 250 mg. A review of the records indicates that the employee has been on other medications like this, such as Relafen, since at least 02/19/2013. The most recent clinical note dated 07/09/2013 failed to indicate the overall efficacy of the medication. The records submitted for this review failed to indicate the efficacy of this medication specifically and fails to indicate laboratory tests to rule out kidney or liver dysfunction due to this medication. California MTUS/ACOEM indicate that the physician “should discuss the efficacy of medication for the particular condition, its side effects and any other relevant information with the patient to ensure proper use.” Specifically for this medication, NSAIDs are recommended at the lowest dose for the shortest period of time in patients with moderate to severe pain. The efficacy of this medication has not been demonstrated, and the records indicate that the employee has been on NSAIDs for a significant length of time without laboratory analysis and without documentation of efficacy. **The request for Naproxen 250mg is not medically necessary and appropriate.**

**6) Regarding the request for Tizanidine 4mg:**

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

The Claims Administrator did not provide any evidence-based guidelines for its decision.

The Expert Reviewer based his decision on the Initial Approaches to Treatment (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 3) pg. 33, Oral Pharmaceuticals, and the Chronic Pain Medical Treatment Guidelines, Muscle Relaxants, pgs. 63-66, which is a part of the MTUS.

Rationale for the Decision:

This request is for tizanidine. The California MTUS Chronic Pain Medical Treatment Guidelines indicate that this medication is FDA-approved for the management of spasticity and has unlabeled use for low back pain. California MTUS/ACOEM indicates that the physician should discuss the efficacy of the

medication for the particular condition, its side effects and any other relevant information with the patient to ensure proper use. The California MTUS Chronic Pain Medical Treatment Guidelines go further, indicating that this type of medication is recommended with caution as a second-line option for treatment for the short-term treatment of acute exacerbations in patients with chronic low back pain. A review of the records indicates that this employee does have acute low back pain but does not indicate that the employee has failed first-line medications. The overall efficacy of this medication has not been demonstrated by the medical records. **The request for Tizanidine 4mg is not medically necessary and appropriate.**

**7) Regarding the request for Prilosec 20mg:**

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

The Claims Administrator did not provide any evidence-based guidelines for its decision.

The Expert Reviewer based his decision on the Initial Approaches to Treatment (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 3) pg 33, Oral Pharmaceuticals and the Chronic Pain Medical Treatment Guidelines, Section on NSAIDS, pgs 67-73.

Rationale for the Decision:

This request is for Prilosec 20 mg. California MTUS/ACOEM Guidelines indicate that the physician should discuss the efficacy of medication for the particular condition, side effects and any other relevant information with the patient to ensure proper use. The California MTUS Chronic Pain Medical Treatment Guidelines go further, indicating that patients at intermediate risk for gastrointestinal events and no cardiovascular disease may take a nonselective NSAID with either a proton pump inhibitor, for example 20 mg of omeprazole or misoprostol. A review of the records do not indicate that this employee has significant cardiovascular conditions, and the records do not indicate that there is a past history of significant gastrointestinal events or is currently complaining of gastrointestinal events. **The request for Prilosec 20mg 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.