

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 12/2/2013

[REDACTED]

[REDACTED]

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 7/12/2013
Date of Injury: 5/11/2001
IMR Application Received: 8/5/2013
MAXIMUS Case Number: CM13-0006792

- 1) MAXIMUS Federal Services, Inc. has determined the request for functional capacity evaluation **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for one-time saliva DNA test **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for Flurflex Ointment **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/5/2013 disputing the Utilization Review Denial dated 7/12/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/6/2013. 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 functional capacity evaluation **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for one-time saliva DNA test **is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for Flurflex Ointment **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 Oklahoma. 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 48-year-old male who reported an injury on 05/11/2001. The injury is noted to have occurred after continuous trauma caused by the patient's boots. The patient was seen by Dr. [REDACTED] on 06/18/2013 with complaints of 5/10 to 7/10 left ankle pain. The patient also reported severe swelling and popping in the left ankle. A past surgical history included a bone spur removal in the left ankle in 2002. Current medications include Tylenol with codeine. Physical examination at that time revealed an antalgic gait, slightly decreased plantar flexion of the left ankle and mild pain with inversion and eversion, no tenderness over the left foot or ankle, 5/5 strength, normal sensory examination and absent reflexes of the left ankle. Diagnoses at that time included left ankle traumatic arthropathy, left ankle pain and chronic pain syndrome. The treatment plan included a request for authorization for a baseline Functional Capacity Evaluation, request for authorization for a 1 time saliva DNA testing to assess the patient's predisposition to prescription narcotics and addiction dependence, the initiation of Flurflex ointment to apply to the left ankle 3 times per day, initiation of Cidaflex #90, initiation of tramadol 50 mg #15 and a return to the clinic in 2 weeks for re-evaluation. A utilization review report was then submitted by Dr. [REDACTED] on 07/13/2013. Specific treatments requested included 1 Functional Capacity Evaluation, 1 urine drug screen, a 1 time saliva DNA testing, 1 prescription for Flurflex ointment, 90 units of Cidaflex and 15 units of tramadol 50 mg. The requests for a urine drug screen, 90 units of Cidaflex and 15 units of tramadol 50 mg were certified. The requests for a Functional Capacity Evaluation, a DNA test and Flurflex ointment were non-certified at that time.

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 functional capacity evaluation:

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, FCE (functional capacity evaluation), Fitness for Duty, which is not a part of the MTUS.

The Expert Reviewer based his/her decision on the Cornerstones of Disability Prevention and Management (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 5) pg. 89-92, Reassessing Function and Functional Recovery, which is a part of the MTUS.

Rationale for the Decision:

A review of the records for review indicates that the employee was currently working as of 06/18/2013, and there was no indication for the necessity of a Functional Capacity Evaluation at that time. CA MTUS/ACOEM states the first step in managing delayed recovery is to document the patient's current state of functional ability (including activities of daily living) and the recovery trajectory to date as a time line. As a starting point for the assessment, obtain a complete history from the patient and other objective observers, including the employer or onsite occupational health professional, with regard to abilities and effectiveness at work. Goals for functional recovery can then be framed with reference to this baseline. A number of functional assessment tools are available, including functional capacity exams and videotapes. As per the clinical notes submitted, the employee's injury is 12 years old to date. It is noted that the employee has been currently working for the past 8 to 9 years following the injury. Current physical examination revealed only mild decreased range of motion with negative orthopedic testing and normal sensation. There was no evidence provided of a physical impairment or a decrease in function that is affecting the employee's ability to work. The employee has worked for several years following an initial injury; therefore, there is no indication of an unsuccessful return to work that would warrant the need for a Functional Capacity Evaluation at this time. Based on the clinical information received and the CA MTUS/ACOEM Guidelines, **the request for a Functional Capacity Evaluation is not medically necessary and appropriate.**

2) Regarding the request for one-time saliva DNA test:

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, Pain, which is not a 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 Official Disability Guidelines (ODG) Chronic Pain Chapter, Online Edition, Genetic testing for potential opioid abuse.

Rationale for the Decision:

ODG states that genetic testing for potential opioid abuse is not recommended. While there appears to be a strong genetic component to addictive behavior, current research is experimental in terms of testing for this. Studies are inconsistent, with inadequate statistics and large phenotype range. A review of the records provided for review, there is no documented evidence of a risk assessment screening for this employee. Therefore, there is no indication that the employee is at a high risk for addictive or aberrant behaviors. **The request for one-time saliva DNA test is not medically necessary and appropriate.**

3) Regarding the request for Flurflex Ointment:

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, pg. 111-113, which is a part of MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Topical Analgesics, pg. 111-113, which is a part of the MTUS.

Rationale for the Decision:

The California MTUS Guidelines state that topical analgesics are largely experimental in use, with few randomized controlled trials to determine efficacy or safety. They are primarily recommended for neuropathic pain when trials of antidepressants and anticonvulsants have failed. With regard to NSAIDs for use as a topical analgesic, the efficacy for this treatment modality has been inconsistent. Indications for the use of a topical NSAID include osteoarthritis and tendonitis, in particular, that of the knee and elbow or other joints that are amenable to topical treatment. They are recommended for short-term use, including 4 to 12 weeks. The only FDA-approved NSAID for use is Voltaren gel, which is indicated for the relief of osteoarthritis pain. There is no evidence for the use of any other muscle relaxant as a topical product. A review of the records provided, there is no indication that this employee has failed a trial of antidepressants or anticonvulsants prior to the request for a topical analgesic. There was also no evidence of a diagnosis of osteoarthritis for this employee at this time. Chronic Pain Medical Treatment Guidelines also state that any compounded product that contains at least 1 drug (or drug class) that is not recommended is not recommended as a whole. There is no evidence for the use

of muscle relaxants as a topical product. **The request for Flurflex Ointment 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
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.