

**MAXIMUS FEDERAL SERVICES, INC.**

Independent Medical Review

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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:	7/23/2013
Date of Injury:	7/19/2007
IMR Application Received:	8/6/2013
MAXIMUS Case Number:	CM13-0006894

- 1) MAXIMUS Federal Services, Inc. has determined the request for **bariatric surgery 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 7/23/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/5/2013. 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 **bariatric surgery 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 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:

Patient has a history of a back injury in the late 1990,s and subsequent wrist injuries. These have been extensively evaluated and disability granted during convalescence. In addition, she has developed a major depressive disorder (Axis I) as well as histrionic personality traits (Axis II). These have been evaluated on 1/2/10, 9/28/10, and 8/26/11. they have been determined to be greater than 51% related to her injuries. She has gained weight, and now has a BMI of 38. She is requesting bariatric surgery. I cannot find any record of failed previous trials at weight loss, consultation with a dietician, or recent psychiatric evaluation that confirms her ability to comply with post bariatric restrictions.

### 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 bariatric surgery:

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

The Claims Administrator did not cite a guideline in its utilization review determination letter.

The Expert Reviewer based his/her decision American Society for Bariatric and Metabolic Surgery statement on Bariatric Surgery Indications. NIH Consensus Statement

Rationale for the Decision:

The employee has a BMI > 35 with obesity related comorbidities that will be ameliorated or eliminated by bariatric surgery. By this criteria the employee would qualify for consideration. However, the employee must undergo extensive evaluation regarding psychological state, as well as attempts to lose weight with diet, and exercise appropriate to current disabilities. There is no evidence of this, and the psych evaluations over a 17 month period suggest that the symptoms are chronic with only minor improvement. There is risk of failure of surgery due to employee noncompliance.

It is appropriate that the employee attempt weight loss through nonsurgical means in a formally supervised program. The guideline criteria have not been met. **The request for bariatric surgery 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

/ldh

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.