

**MAXIMUS FEDERAL SERVICES, INC.**

Independent Medical Review  
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**Notice of Independent Medical Review Determination**

Dated: 10/23/2013

[Redacted]

[Redacted]

Employee: [Redacted]  
Claim Number: [Redacted]  
Date of UR Decision: 7/16/2013  
Date of Injury: 10/20/2011  
IMR Application Received: 8/5/2013  
MAXIMUS Case Number: CM13-0007243

- 1) MAXIMUS Federal Services, Inc. has determined the request for post operative physical therapy for thirty-six visits **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for an off shelf lumbar brace **is medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for a one to two day length of stay **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for a home health evaluation from AAA nursing services **is not medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for transportation to and from surgery **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 7/16/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/4/2013. 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 post operative physical therapy for thirty-six visits **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for an off shelf umbar brace **is medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for a one to two day length of stay **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for a home health evaluation from AAA nursing services **is not medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for transportation to and from 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 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 16, 2013:

History: ~~The question is: should the microdiscectomy L4-L5 left side with assistant surgeon, postop PT x36 visits, lumbar brace off shelf, internal medicine clearance, front wheeled walker purchase, 1-2 day LOS, home health evaluation --- nursing services as well as transportation to and from surgery, if needed be authorized?~~ History: [REDACTED] has a DOI of 10/20/11 and is noted to be a 53 y/o male. A previous UR review from 04/18/12 noted the following: "Clinical data submitted indicates the worker has undergone multilevel epidural steroid injections (L2-3, L3-4 and L4-5) and bilateral L3-4 facet joint injections for the low back and radicular symptoms that developed following the lifting injury of six months ago. The worker is reported to have responded well to the initial set of injections and is currently reporting a perceived pain level of only 2/10. The worker cannot recall the medications being prescribed by his treating orthopedic surgeon who is also managing his activity modification, work status, and physical rehabilitation services. Given the marked improvement (perceived pain level dropping from 10/10 to 2/10), the medical necessity for

further interventional treatment cannot be established at this time.". There was note of multiple levels of degenerative disc disease with mild canal stenosis. That request was for an ESI at L5-S1 and facet injections at L4-L5 and L5-S1. On 06/06/13 MRI noted disc desiccation at L2-L3 and L3-L4 and L4-L5. Disc bulge at L4-L5 more to the left with moderate/severe left and moderate right neuroforaminal narrowing/stenosis. Disc impinges on left L4 root. At L2-L3 and L3-L4 disc bulges without extrusion or herniation affecting right more than left sides respectfully at both L2-L3 and L3-L4 levels. L5-S1 was unremarkable. This patient has on 06/10/13 note of ongoing back and left leg pain. Motors intact except for left TA and EHL at 4-/5. Decrease light touch left L5 distribution. Doctor noted MRI from 05./24/13 documented left paracentral disc protrusion at L4-L5 to the left. 6-7 mm size noted. Doctor noted need for left L4-L5 microdiscectomy to decompress the left L5 root. This is now request for microdiscectomy at L4-L5 to the left side.

### **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 8/5/13)
- Utilization Review Determination from [REDACTED] (dated 7/16/13)
- Medical Records from [REDACTED]
- Medical Treatment Utilization Schedule (MTUS)

### **1) Regarding the request for post operative physical therapy for thirty-six visits:**

#### 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 Claims Administrator based its decision on the Postsurgical Medical Treatment Guidelines, (2009), Discectomy/Laminectomy section, which is part of the California Medical Treatment Utilization Schedule (MTUS). The Expert Reviewer found the referenced section of the MTUS used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

#### Rationale for the Decision:

The employee was injured on 10/20/2011 and has ongoing low back pain with radiation to the left leg. Treatment has included medications, injections, and rehabilitation therapy. The employee underwent left interlaminar laminotomy and microdiscectomy surgery at L4-5 level on 7/18/2013. A request was submitted for post operative physical therapy for 36 visits.

The MTUS Postsurgical Treatment guidelines recommend 16 physical therapy sessions. The records submitted and reviewed do not document any compelling reason why this employee will require 36 sessions rather than 16 visits as recommended by the guidelines. The request for post operative physical therapy for 36 visits **is not medically necessary and appropriate.**

### **2) Regarding the request for an off shelf lumbar brace:**

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 Claims Administrator based its decision on Low Back Complaints (ACOEM Practice Guidelines, 2<sup>nd</sup> Edition (2004), Chapter 12, pages 300-301), which are part of the California Medical Treatment Utilization Schedule (MTUS). The Claims Administrator also cited the Official Disability Guidelines (ODG), Low Back Chapter, which is a medical treatment guideline that is not part of the MTUS. The Expert Reviewer determined the MTUS does not address the issue in dispute. The Expert Reviewer relied on the ODG – Low Back Chapter, Post-Op Bracing section, which is a medical treatment guideline that is not part of the MTUS.

Rationale for the Decision:

The employee was injured on 10/20/2011 and has ongoing low back pain with radiation to the left leg. Treatment has included medications, injections, and rehabilitation therapy. The employee underwent left interlaminar laminotomy and microdiscectomy surgery at L4-5 level on 7/18/2013. A request was submitted for lumbar brace off shelf.

The ODG indicates that post-op bracing of the lumbar spine is under study. However, the ODG does support the use of a standard lumbar brace depending on the experience and expertise of the treating physician. Given the records, the requested brace is consistent with the ODG recommendations. The request for lumbar brace off shelf **is medically necessary and appropriate.**

**3) Regarding the request for a one to two day length of stay:**

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 Claims Administrator based its decision on the Official Disability Guidelines (ODG), Low Back Chapter, Hospital Length of Stay section, which is a medical treatment guideline that is not part of the California Medical Treatment Utilization Schedule (MTUS). The Expert Reviewer determined the MTUS do not address the issue in dispute. The Expert Reviewer found the ODG section used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance.

Rationale for the Decision:

The employee was injured on 10/20/2011 and has ongoing low back pain with radiation to the left leg. Treatment has included medications, injections, and rehabilitation therapy. The employee underwent left interlaminar laminotomy and microdiscectomy surgery at L4-5 level on 7/18/2013. A request was submitted for a one to two day length of stay.

The ODG supports the median number for hospital stays to be one day on a prospective basis. If an unforeseen complication occurred and the employee required additional hospital stay, this would need to be addressed separately. However, for prospective planning, one hospital day is recommended for laminotomy/discectomy, for which this employee is being scheduled. The

request for a one to two day length of stay **is not medically necessary and appropriate.**

**4) Regarding the request for a home health evaluation from AAA nursing services:**

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 guidelines in its utilization review determination. The Expert Reviewer relied on the Chronic Pain Medical Treatment Guidelines (2009), page 51, which is part of the MTUS.

Rationale for the Decision:

The employee was injured on 10/20/2011 and has ongoing low back pain with radiation to the left leg. Treatment has included medications, injections, and rehabilitation therapy. The employee underwent left interlaminar laminotomy and microdiscectomy surgery at L4-5 level on 7/18/2013. A request was submitted for home health evaluation from AAA nursing services.

The MTUS Chronic Pain Guideline recommends home health only for otherwise recommended medical treatment for patients who are homebound, on a part-time or intermittent basis, generally up to no more than 35 hours per week. Medical treatment does not include homemaker services like shopping, cleaning, and laundry, and personal care given by home health aides like bathing, dressing, and using the bathroom when this is the only care needed. The records submitted and reviewed do not document any assessment regarding the employee's lack of ability to self-care and for what reason. The employee has chronic neck, thoracic and back pain without any definitive neurologic deficits. There does not appear to be any reason why this employee cannot self-care following a discectomy lumbar surgery. The request for home health evaluation from AAA nursing services **is not medically necessary and appropriate.**

**5) Regarding the request for transportation to and from 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 any evidence-based guidelines in its utilization review determination. The Expert Reviewer determined the California MTUS do not address the issue in dispute. The Expert Reviewer was unable to find a medical treatment guideline, nationally-recognized professional standard, or expert opinion that addresses the issue at dispute. The Expert Reviewer based his/her decision on generally accepted standards of medical practice.

Rationale for the Decision:

The employee was injured on 10/20/2011 and has ongoing low back pain with radiation to the left leg. Treatment has included medications, injections, and rehabilitation therapy. The employee underwent left interlaminar laminotomy and microdiscectomy surgery at L4-5 level on 7/18/2013. A request was submitted for transportation to and from surgery.

Based on generally accepted standards of practice, there is no reason why the employee should not be able to drive or use public transportation following discectomy. The records submitted and reviewed do not include any discussion regarding the employee's ability to drive. The employee was not noted to be on any pain medication prior to surgery. Overall, there is lack of any discussion to support the employee's special needs for transportation. The request for transportation to and from 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,

Richard C. Weiss, MD, MPH, MMM, PMP  
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.