

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 11/6/2013

[REDACTED]

[REDACTED]

Employee:	[REDACTED]
Claim Number:	[REDACTED]
Date of UR Decision:	7/9/2013
Date of Injury:	5/10/2012
IMR Application Received:	8/6/2013
MAXIMUS Case Number:	CM13-0008227

- 1) MAXIMUS Federal Services, Inc. has determined the retrospective request for Biotherm **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/6/2013 disputing the Utilization Review Denial dated 7/9/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/9/2013. 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 retrospective request for Biotherm **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 58-year-old male who reported an injury on 05/10/2012. The injury is noted to have occurred when the patient forcefully struck his knee while opening the drawer to his desk. The patient was seen on 04/04/2013 by Dr. [REDACTED]. It is noted upon medical review that the patient was admitted to the hospital on 05/23/2012 following the injury, and subsequently underwent surgery to the right knee and calf. The patient then completed 12 sessions of physical therapy postoperatively. Current complaints include right knee pain with radiation to the inner thigh and hip, as well as into the calf and ankle. Current medications include naproxen and ibuprofen. Physical examination of bilateral knees revealed decreased range of motion of the left knee, tenderness to palpation bilaterally with hypertonicity on the right side of the quadriceps muscle, tenderness to palpation of the patella and gastrocnemius muscle, positive McMurray's sign on the right, negative anterior and posterior drawer testing, and normal pulses. It was noted that an x-ray of the right knee was performed on 04/04/2013, which indicated patellofemoral arthritis with decreased joint space and a bone spur medially, without any fractures or lesions. Diagnosis at that time included status post right knee septic arthritis, right calf infection status post ruptured Baker's cyst, and possible right knee surgical arthroscopy. Recommendations at that time included a request for authorization of an MRA of the right knee, diclofenac, Biotherm cream, and a urine specimen collection. An unofficial arthrogram report of the right knee was submitted on 04/18/2013, which indicated postsurgical medial meniscus re-tear of the posterior horn, degenerative signal along the inner free edge of the lateral meniscus, mucoid degeneration of the ACL versus chronic partial thickness tear proximally, chronic sequela of MCL sprain, tricompartmental osteoarthritis, and a popliteal cyst. The patient was then seen by Mr. [REDACTED] on 06/06/2013. The patient presented with continued complaints of right knee pain and instability. Objective findings included trace prepatellar effusion of the right knee, medial joint line tenderness to palpation, limited range of motion, negative drawer testing, and positive McMurray's testing. Diagnoses included status post right knee septic arthritis, right calf infection, status post ruptured

Baker's cyst, and possible right knee surgical arthrotomy. Treatment plan at that time included continuation of physical therapy of the right knee twice per week for 6 weeks and continuation of over the counter medications as needed for pain. A medical review was then submitted on 07/09/2013 for the requested service Biotherm cream. The request for Biotherm cream for bilateral knees and leg was non-certified at that time. The patient was then seen by Dr. [REDACTED] on 06/27/2013. Physical examination of the knee included visible effusion present on the right, normal patellar tracking, slightly decreased extension of the right knee, popping and crepitus during range of motion bilaterally, tenderness over the right inner knee, and negative orthopedic testing. It was determined at that time that the patient had attained maximum medical improvement. With respect to the lumbar spine, right knee, and right ankle injuries, the patient was given a total whole person impairment rating of 37%. Future treatment included medication management and possible orthopedic surgeon referral for the right knee. The patient was again seen by Dr. [REDACTED] on 08/01/2013. The patient continued to report pain in the right lower extremity from the right knee to the right calf. It is noted that the patient had begun physical therapy and completed 2 sessions to date. Physical examination revealed medial joint line tenderness to palpation, full range of motion, positive McMurray's, and mild posterior compartment tenderness, as well as posterior calf tenderness to palpation. Treatment plan included continuation of over the counter ibuprofen, as well as continuation of physical therapy. A Physician's Supplemental Report was submitted by Dr. [REDACTED] on 09/09/2013. Dr. [REDACTED] addressed the issue of Biotherm cream, also known as capsaicin 0.002%, as prescribed to the patient. It was noted that the patient was treated with capsaicin, or Biotherm, for the treatment of pain due to arthritis.

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 Biotherm:

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, page 111, which is part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Topical Analgesics, pages 111-112, which is part of the MTUS.

Rationale for the Decision:

The Chronic Pain guidelines state that "topical analgesics are largely experimental in use with few randomized control trials to determine efficacy or

safety. They are primarily recommended for neuropathic pain when trials of antidepressants and anticonvulsants have failed. Any compounded product that contains at least 1 drug that is not recommended is not recommended as a whole.” The submitted medical records do not indicate if the employee has tried and failed a trial of antidepressants or anticonvulsants prior to the request for a compounded medication. The Chronic Pain guidelines also state that “capsaicin is recommended only as an option in patients who have not responded or are intolerant to other treatments. Topical capsaicin has moderate to poor efficacy and may be particularly useful in patients whose pain has not been controlled successfully with conventional therapy.” The documentation submitted does not provide evidence of the employee’s response to conservative treatments and there is no indication the pain is neuropathic in origin. **The retrospective request for Biotherm 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, 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.