
Notice of Independent Medical Review Determination

Dated: 12/2/2013

[REDACTED]

[REDACTED]

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 8/2/2013
Date of Injury: 5/31/2011
IMR Application Received: 8/12/2013
MAXIMUS Case Number: CM13-0009724

- 1) MAXIMUS Federal Services, Inc. has determined the request for **OrthoStim4 plus supplies is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **aqua therapy; twelve (12) sessions 2 times a week for 6 weeks is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for **hot/cold contrast unit is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for **psychological consultation is medically necessary and appropriate.**
- 5) MAXIMUS Federal Services, Inc. has determined the request for **pain management consultation is medically necessary and appropriate.**
- 6) MAXIMUS Federal Services, Inc. has determined the request for **sleep study consultation is not medically necessary and appropriate.**
- 7) MAXIMUS Federal Services, Inc. has determined the request for **urology consultation is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/12/2013 disputing the Utilization Review Denial dated 8/2/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/18/2013. 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 **OrthoStim4 plus supplies** is not medically necessary and appropriate.
- 2) MAXIMUS Federal Services, Inc. has determined the request for **aqua therapy; twelve (12) sessions 2 times a week for 6 weeks** is not medically necessary and appropriate.
- 3) MAXIMUS Federal Services, Inc. has determined the request for **hot/cold contrast unit** is not medically necessary and appropriate.
- 4) MAXIMUS Federal Services, Inc. has determined the request for **psychological consultation** is medically necessary and appropriate.
- 5) MAXIMUS Federal Services, Inc. has determined the request for **pain management consultation** is medically necessary and appropriate.
- 6) MAXIMUS Federal Services, Inc. has determined the request for **sleep study consultation** is not medically necessary and appropriate.
- 7) MAXIMUS Federal Services, Inc. has determined the request for **urology consultation** 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 Occupational Medicine, 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 applicant is a represented 36-year-old former truck driver who has filed a claim for chronic low back pain reportedly associated with an industrial injury of May 31, 2011.

Thus far, he has been treated with the following: Analgesic medications; adjuvant medications; transfer of care to and from various providers in various specialties; prior lumbar laminectomy and partial facetectomy at L4-L5 on September 18, 2012; and extensive periods of time off of work.

In a utilization review report of August 1, 2013, the claims administrator denied request for an OrthoStim device, a psychiatry consultation, aquatic therapy, a hot and cold unit, a pain management consultation, a sleep medicine consultation, and a urology consultation.

On August 9, 2013, the applicant's attorney subsequently appealed.

An earlier handwritten note of August 22, 2013, is notable for comments that the applicant is off of work, on total temporary disability, and does report chronic low back pain. The note is handwritten, not entirely legible. There is evidence that the applicant reports radiation of pain to the legs and is also apparently having issues with anxiety, depression, headache, and erectile dysfunction, it is further stated.

An earlier handwritten note of July 18, 2013, again, while not entirely legible, does report ongoing issues with headaches, anxiety, depression, and sleep disturbance. The applicant is again placed off of work and asked to consult numerous providers in numerous specialties.

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 OrthoStim4 plus supplies :

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines, Transcutaneous Electrotherapy, pages 114-121, and Physical Medicine, Criteria for the use of TENS, pages 98-99 which is part of MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Neuromuscular electrical stimulation (NMES devices), page 117, which is part of MTUS and <http://www.vgorthocare.com/products/surgistim-4/>, which is not part of MTUS.

Rationale for the Decision:

Based on the product description, the proposed OrthoStim4 seemingly includes numerous modalities which carry unfavorable recommendations in the MTUS Chronic Pain Medical Treatment Guidelines. For example, OrthoStim4 appears to incorporate both galvanic stimulation and neuromuscular stimulation. Galvanic stimulation, per the MTUS Chronic Pain Medical Treatment Guidelines, is considered investigational for all purposes, while neuromuscular stimulation is only recommended in the post stroke rehabilitative context, not seemingly

present here. **The request for OrthoStim4 plus supplies is not medically necessary and appropriate.**

2) Regarding the request for aqua therapy; twelve (12) sessions 2 times a week for 6 weeks:

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines, Aquatic Therapy, page 22 which is part of MTUS.

The Expert Reviewer based his/her decisions on the Chronic Pain Medical Treatment Guidelines, Aquatic Therapy, page 22, which is part of MTUS.

Rationale for the Decision:

While page 22 of the MTUS Chronic Pain Medical Treatment Guidelines does endorse aquatic therapy as an optional form of exercise therapy in those employees in whom reduced weight bearing is desirable, as, for example, with extreme obesity, in this case, however, the attending provider has not clearly furnished a rationale for provision of aquatic therapy. It is not clearly stated that the employee is obese, immobile, and otherwise incapable of participating in land-based therapy and/or land-based home exercises. **The request for aqua therapy; twelve (12) sessions 2 times a week for 6 weeks is not medically necessary and appropriate.**

3) Regarding the request for hot/cold contrast unit :

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the American College of Occupational and Environmental Medicine (ACOEM), 2nd Edition, Low Back Complaints Chapter, page 300, which is part of MTUS, and the American College of Occupational and Environmental Medicine (ACOEM), 3rd Edition, Low Back Disorders Chapter, (update to Chapter 12), page 155, which is not part of MTUS

The Expert Reviewer based his/her decision on the Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), Physical Methods, page 298-300, which is part of the MTUS and the American College of Occupational and Environmental Medicine, 3rd Edition (update to Chapter 12), Chronic Pain, General Principles of Treatment, Allied Health Professionals, which is not part of MTUS.

Rationale for the Decision:

As noted in the MTUS-adopted ACOEM Guidelines in Chapter 12, simple, low-tech, at-home local applications of heat and cold are as effective as those performed by therapists or, by implication, those delivered through high-tech devices. This is echoed by the Third Edition ACOEM Guidelines, which also do

not endorse high-tech devices to deliver heat and cold. **The request for hot/cold contrast unit is not medically necessary and appropriate.**

4) Regarding the request for psychological consultation:

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines, Psychological Evaluations, pages 100-101 and Physical Medicine Guidelines, pages 98-99, which are part of MTUS.

The Expert Reviewer based his/her decision on the Stress Related Conditions Chapter (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 15), Referral, page 398, which is part of MTUS.

Rationale for the Decision:

As noted in the MTUS-adopted ACOEM Guidelines in Chapter 15, the presence of psychiatric symptoms which continue for more than six to eight weeks do warrant referral to a mental health specialist. In this case, the applicant has had ongoing mental health complaints of anxiety, depression, headaches, etc., reported on several office visits with his primary treating provider. Obtaining the added expertise of a psychiatrist is indicated in this context. **The request is certified. The request for psychological consultation is medically necessary and appropriate.**

5) Regarding the request for pain management consultation :

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the American College of Occupational and Environmental Medicine, Chapter 7, Independent Medical Examinations and Consultations regarding Referrals, page 127, which is not part of MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Introduction, page 1, which is part of MTUS.

Rationale for the Decision:

As noted on page 1 of the MTUS Chronic Pain Medical Treatment Guidelines, the failure of an employee to progress with conservative measures should lead a primary treating provider to reconsider the diagnosis and determine whether a specialist evaluation is necessary. In this case, the employee's failure to progress, failure to return to any form of work, failure to respond favorably to prior spine surgery, etc., do warrant the added expertise of a physician specializing in chronic pain. **The request for pain management consultation is medically necessary and appropriate.**

6) Regarding the request for sleep study consultation:

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the ACOEM for Independent Medical and Consultations regarding Referrals Chapter7 page 27.

The Expert Reviewer found the guidelines used by the Claims Administrator relevant and appropriate for the employee's clinical circumstance

<http://www.aasmnet.org/Resources/clinicalguidelines/040515.pdf>

Schutte-Rodin S; Broch L; Buysse D; Dorsey C; Sateia M. Clinical guideline for the evaluation and management of chronic insomnia in adults. J Clin Sleep Med 2008;4(5):487-504, which is not part of MTUS.

Rationale for the Decision:

The MTUS does not specifically address the topic. As noted by the American Academy of Sleep Medicine (AASM), sleep studies are not indicated in the routine evaluation of chronic insomnia due to psychiatric or neuropsychiatric disorders. In this case, the employee does have ongoing mental health issues which could be generating his sleep disturbance. A sleep study or sleep study consultation would be of no benefit in establishing the presence of sleep disturbance secondary to mental health issues. **The request for sleep study consultation is not medically necessary and appropriate.**

7) Regarding the request for Urology:

The Medical Treatment Guidelines Relied Upon by the Expert Reviewer to Make His/Her Decision

The Claims Administrator based its decision on the ACOEM for Independent Medical and Consultations regarding Referrals Chapter7 page 27, which is not part of MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Introduction, page 1, which is part of the MTUS and <http://www.guideline.gov/content.aspx?id=10018&search=erectile+dysfunction>, Guideline Title, The management of erectile dysfunction, which is not part of MTUS.

Rationale for the Decision:

The MTUS does not specifically address the topic. As noted by the American Urological Association (AUA), the currently available therapies that should be considered for the treatment of erectile dysfunction include oral phosphodiesterase inhibitors, intraurethral drugs, vacuum constriction devices, etc. These treatments should be initiated in a step-wise fashion with increasing invasiveness, per the AUA. In this case, it does not appear that the attending provider has initiated treatment with phosphodiesterase inhibitors prior to considering urologic consultation. **The request for urology consultation 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
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Oakland, CA 94612

/cmol

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.