

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

P.O. Box 138009

Sacramento, CA 95813-8009

(855) 865-8873 Fax: (916) 605-4270



Notice of Independent Medical Review Determination

Dated: 12/5/2013

[REDACTED]

[REDACTED]

Employee:	[REDACTED]
Claim Number:	[REDACTED]
Date of UR Decision:	7/26/2013
Date of Injury:	1/6/2012
IMR Application Received:	8/9/2013
MAXIMUS Case Number:	CM13-0011113

- 1) MAXIMUS Federal Services, Inc. has determined the request for **TENS unit rental for 30 days is medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **functional capacity assessment is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/9/2013 disputing the Utilization Review Denial dated 7/26/2013. A Notice of Assignment and Request for Information was provided to the above parties on 10/11/2013. 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 **TENS unit rental for 30 days is medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **functional capacity assessment 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:

All medical, insurance, and administrative records provided were reviewed. The claimant is a represented former [REDACTED], medical records clerk who has filed a claim for chronic low back pain, chronic knee pain, and reactive anxiety and depression reportedly associated with an industrial injury of January 6, 2012.

Thus far, the applicant has been treated with the following: Analgesic medications; adjuvant medications; psychotropic medications; prior L5-S1 lumbar fusion surgery; and extensive periods of time off of work, on total temporary disability.

In a prior Utilization Review Report of July 26, 2013, the claims administrator apparently denied a TENS unit rental and also denied a functional capacity evaluation.

A later note of August 6, 2013, is notable for comments that the claimant continues to have postoperative pain with associated anxiety and depression. The applicant is asked to continue Wellbutrin, Voltaren, Prilosec, and tramadol while remaining off of work, on total temporary disability. A TENS unit is apparently sought.

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 TENS unit rental for 30 days:

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

The Claims Administrator based its decision on the CA MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Criteria for the use of TENS, page 116, which is part of the MTUS.

Rationale for the Decision:

As noted on page 116 of the MTUS Chronic Pain Medical Treatment Guidelines, criteria for the use of TENS include evidence of chronic intractable pain of greater than three months' duration in individuals in whom other appropriate pain modalities, including pain medications have been tried and/or failed. In this case, the employee has clearly tried and failed numerous analgesics and adjuvant medications as well as prior lumbar spine surgery, and has failed to effect any functional improvement to date. The employee remains off of work, on total temporary disability, several years removed from the date of injury. The employee is, as suggested on page 116 of the MTUS Chronic Pain Medical Treatment Guidelines, therefore, a candidate for one-month trial of TENS unit. **The request for TENS unit rental for 30 days is medically necessary and appropriate.**

2) Regarding the request for functional capacity assessment:

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

The Claims Administrator based its decision on the CA MTUS.

The Expert Reviewer based his/her decision on the American College of Occupational and Environmental Medicine (ACOEM), 2nd Edition, (2004), Chapter 7, Independent Medical Examinations and Consultations, which is not part of the MTUS, and the Chronic Pain Medical Treatment Guidelines, Criteria for admission to a Work Hardening Program, page 125, which is part of the MTUS.

Rationale for the Decision:

While the MTUS does not specifically address all indications for functional capacity evaluations, Page 125 of the MTUS Chronic Pain Medical Treatment Guidelines does suggest that FCEs can be performed as a precursor to enrollment in a work hardening program. In this case, however, there is no indication or evidence that the employee intends to enroll in a work hardening program or is seeking to enroll in work hardening program. It is further noted that ACOEM Guidelines in Chapter 7 suggest that FCEs are overly used, widely promoted, and are not necessarily an accurate characterization or depiction of what an applicant can or cannot do in the workplace. In this case, it is not clearly stated that the employee has a job to return to, intends to return to the workforce, is approaching maximal medical improvement, etc. FCE testing is largely

superfluous in this context. **The request for functional capacity assessment 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.

Farmers Insurance Exchange
PO Box 108843
Oklahoma City, OK 73101