

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 12/4/2013

[REDACTED]

[REDACTED]

| | |
|---------------------------|--------------|
| Employee: | [REDACTED] |
| Claim Number: | [REDACTED] |
| Date of UR Decision: | 7/25/2013 |
| Date of Injury: | 6/26/2008 |
| IMR Application Received: | 8/15/2013 |
| MAXIMUS Case Number: | CM13-0011524 |

- 1) MAXIMUS Federal Services, Inc. has determined the request for **six sessions of acupuncture is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **six sessions of behavioral health with biofeedback is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for **home health aide once a week for five hours for six months is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/15/2013 disputing the Utilization Review Denial dated 7/25/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/20/2013. 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 **six sessions of acupuncture is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for **six sessions of behavioral health with biofeedback is not medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for **home health aide once a week for five hours for six months 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 Preventative Medicine and 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 [REDACTED] employee who has filed a claim for chronic neck pain, chronic low back pain, fibromyalgia, carpal tunnel syndrome, depression, rosacea, gastritis, and thoracic outlet syndrome, reportedly associated with an industrial injury of June 26, 2008. Thus far, the applicant has been treated with analgesic medications, prior cervical fusion surgery, transfer of care to and from various providers in various specialties, adjuvant medications, unspecified amounts of psychological counseling, and extensive periods of time off of work, on total temporary disability. In a utilization review report of July 25, 2013, the claims administrator denied requests for acupuncture, home health, and additional behavioral health with biofeedback. The applicant's attorney appealed, on August 13, 2013. An earlier progress note of July 11, 2013 is notable for comments that the applicant has not been exercising. She reports heightened neck and shoulder pain. She has had four sessions of acupuncture in late 2012 and early 2013. She is asked to remain off of work, on total temporary disability. Additional acupuncture is sought. She is asked to continue treatment for her adjustment disorder, vocational issues and stuttering. A home health aid is sought for the purposes of assistance with house cleaning and chores, one day a week for five hours a day for six months.

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 Employee/Employee Representative
- Medical Treatment Utilization Schedule (MTUS)

1) Regarding the request for six sessions of acupuncture:

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 Acupuncture Medical Treatment Guidelines, which is a part of MTUS.

The Expert Reviewer based his/her decision on the Acupuncture Medical Treatment Guidelines, which is a part of MTUS.

Rationale for the Decision:

As noted in MTUS guidelines, acupuncture may be a standard of care if functional improvement is documented as defined in the guidelines. A review of the records indicates however no evidence in the clinical notes provided that the employee has demonstrated any functional improvement. The fact that the employee remains off of work, on total temporary disability, continues to seek care from multiple providers in multiple specialities, and continues to use analgesic medications, all indicate a failure to achieve functional improvement. **The request for an additional six sessions of acupuncture is not medically necessary and appropriate.**

2) Regarding the request for six sessions of behavioral health with biofeedback:

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, Biofeedback, which is a part of MTUS, as well as the Official Disability Guidelines (ODG), Cognitive Behavioral Therapy and Biofeedback Guidelines, which is not a part of the MTUS.

The Expert Reviewer based his/her decision on the Stress Related Conditions Chapter (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 15), page 405, which is a part of the MTUS.

Rationale for the Decision:

As noted in the MTUS-adopted ACOEM Guidelines in Chapter 15, an employee's failure to improve may be due to an incorrect diagnosis, unrecognized medical and/or psychological conditions or unrecognized psychosocial stressors. In this case, a review of the records provided indicates that the employee has had prior

unspecified amounts of psychological counseling and other mental health treatment modalities. There has, indeed, been a failure to improve as defined in the guidelines. The failure to return to any form of work and continued reliance on both medical and mental health treatments demonstrate the lack of functional improvement. **The request for six sessions of behavioral health with biofeedback is not medically necessary and appropriate.**

3) Regarding the request for home health aide once a week for five hours for six months:

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 ACOEM Guidelines, Home Health Care, which is a part of the MTUS and the Official Disability Guidelines, Home Health Services, which is not a part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, page 51, home health services, which is a part of the MTUS.

Rationale for the Decision:

As noted in the MTUS Chronic Pain Medical Treatment Guidelines, stand alone caregiver services/homemaker services for cooking, cleaning, assistance with activities of daily living is not recommended when this is the only treatment being sought. A review of the records indicates that all the services being stopped by the attending provider are non-medical services. These are not covered when these are the sole service being requested. **The request for weekly home health aide services for six months 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

/dso

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.