

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: **12/16/2013**

[REDACTED]

[REDACTED]

Employee:	[REDACTED]
Claim Number:	[REDACTED]
Date of UR Decision:	8/8/2013
Date of Injury:	1/21/2011
IMR Application Received:	8/15/2013
MAXIMUS Case Number:	CM13-0011797

- 1) MAXIMUS Federal Services, Inc. has determined the request for **Flector patch 1.3% #30 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 8/8/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/25/2013. 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 **Flector patch 1.3% #30 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, has a subspecialty in Pain 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:

This is a 58-year-old patient who sustained a work-related injury on 01/21/2011 to the neck with radiating pain down the left side of the arm. Diagnosis was made of C6-7 radiculopathy through an EMG/NCV study done on 02/12/2011. The patient reported a re-injury on 03/08/2013 which exacerbated her chronic neck pain. She was seen by the provider on 04/27/2013. The examination showed cervical flexion 40 degrees, extension 25 degrees, lateral flexion was equal 30 degrees to the right and left, rotation to the left and right were equal at 50 degrees, bilateral upper extremities difficult to assess because of neck and shoulder pain, strength 4/5 in the left upper extremity and 5/5 in the right, sensation decreased to light touch in the left upper extremity, and reflexes equal and symmetric bilaterally in the upper extremities of the biceps and triceps. The patient was seen again on 07/26/2013 for flare-up pain in the left C7 region. The patient was confirmed with neuropathic and reactive pain in the left shoulder and responded well in the past to acupuncture and myofascial therapy. The pain is VAS rated at 3/10 to 4/10. The cervical spine examination showed flexion 40 degrees; extension 25 degrees; lateral flexion 30 degrees to the right and left; and 50 degrees to the right and left on rotation. The bilateral upper extremities were difficult to assess due to the neck and left shoulder complaints, with strength noted to be 4/5 in the left upper extremity. Sensation remained decreased to light touch in the left upper extremity, with reflexes equal and symmetric bilaterally in the upper biceps and triceps. The diagnosis was neck sprain and myalgia.

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 Treatment Utilization Schedule (MTUS)
- Medical Records from:
 - Claims Administrator
 - Employee/Employee Representative
 - Provider

1) Regarding the request for Flector patch 1.3% #30:

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 Official Disability Guidelines (ODG), Pain Chapter, which is not part of the MTUS.

The Expert Reviewer based his/her decision on the Chronic Pain Medical Treatment Guidelines, Topical Analgesic, pages 111-112, which is part of the MTUS. The Expert Reviewer also based his/her decision on the Official Disability Guidelines (ODG), Pain (Chronic), which is not part of the MTUS.

Rationale for the Decision:

The California MTUS recommends topical analgesics for neuropathic pain when trials of anti-depressants and anti-convulsants have failed. Non-steroidal anti-inflammatory topical agents are not recommended for neuropathic pain. They are largely used for the relief of osteoarthritis pain in joints. The Official Disability Guidelines address Flector patch and it is not recommended as a first-line treatment. It is recommended for osteoarthritis after failure of oral non-steroidal anti-inflammatory drugs or if they are contraindicated. The Flector patch is FDA indicated for acute strains, sprains, and contusions. The provider note on 07/26/2013 indicated that the Flector patch was for residual soft tissue spinal pain from the employee's 03/08/2013 injury. There was no documentation submitted to support failure of non-steroidal anti-inflammatories used previously and there was no documentation of the employee with osteoarthritis. **The request for Flector patch 1.3% #30 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.