

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:	7/30/2013
Date of Injury:	11/1/2005
IMR Application Received:	8/19/2013
MAXIMUS Case Number:	CM13-0013904

- 1) MAXIMUS Federal Services, Inc. has determined the request for **six (6) additional sessions of acupuncture is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 8/19/2013 disputing the Utilization Review Denial dated 7/30/2013. A Notice of Assignment and Request for Information was provided to the above parties on 9/30/2013. 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 (6) additional sessions of acupuncture** 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 [REDACTED] employee who has filed a claim for chronic low back pain reportedly associated with a November 1, 2005, industrial injury.

Thus far, the applicant has been treated with the following: Analgesic medications; cognitive behavioral therapy; 20 sessions of chiropractic manipulative therapy in 2007; 24 sessions of acupuncture in 2013; attorney representation; MRI imaging of the lumbar spine of August 15, 2013, notable for low-grade facet arthropathy at L5-S1; topical compounds; and the apparent imposition of permanent work restrictions.

In utilization review report of July 30, 2013, the claims administrator denied a request for additional acupuncture, using the outdated 2007 MTUS acupuncture guidelines. The claims administrator also mislabeled MTUS 9792.20f as originating from ODG.

The applicant's attorney later appealed, on August 15, 2013. An earlier note of July 29, 2013 is notable for comments that the applicant completed 12 sessions of acupuncture and noted only fleeting relief. The applicant's pain went back to baseline two days after completing acupuncture. The applicant is also on topical compounded ketamine with a topical Voltaren cream, Cymbalta, tramadol, and topical lidocaine ointment, it is further noted. The applicant is asked to continue permanent work restrictions, it is stated. The applicant has already been deemed permanent and stationary with permanent work restrictions, it is further noted.

An earlier note of June 17, 2013 is also notable for comments that the applicant is permanent and stationary with permanent disability.

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 six (6) additional 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 part of the MTUS.

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

Rationale for the Decision:

As noted in the Acupuncture Medical Treatment Guidelines, acupuncture may be extended if there is evidence of functional improvement as defined in section 9792.20f. In this case, however, there is no such evidence of functional improvement as defined in section 9792.20f. The employee's failure to return to work, unchanged work restrictions from visit to visit, imposition of permanent work restrictions, and continued usage of numerous analgesic, adjuvant, and psychotropic medications, taken together, implies a lack of functional improvement as defined in section 9792.20f following completion of the 24+ acupuncture treatments. **The request for six (6) additional sessions of acupuncture 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

/ldh

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.