
Notice of Independent Medical Review Determination

Dated: 10/17/2013

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Employee: [REDACTED]
Claim Number: [REDACTED]
Date of UR Decision: 7/20/2013
Date of Injury: 12/6/2002
IMR Application Received: 7/25/2013
MAXIMUS Case Number: CM13-0003182

- 1) MAXIMUS Federal Services, Inc. has determined the request for spinal surgical consultation second opinion **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for Norco 10/325mg #60 **is medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for psychological clearance for spinal cord stimulator **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for unknown prescription of transdermal analgesic ointments **is not medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/25/2013 disputing the Utilization Review Denial dated 7/21/2013. A Notice of Assignment and Request for Information was provided to the above parties on 7/30/2013. 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 spinal surgical consultation second opinion **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for Norco 10/325mg #60 **is medically necessary and appropriate.**
- 3) MAXIMUS Federal Services, Inc. has determined the request for psychological clearance for spinal cord stimulator **is not medically necessary and appropriate.**
- 4) MAXIMUS Federal Services, Inc. has determined the request for unknown prescription of transdermal analgesic ointments **is not medically necessary and appropriate.**

Medical Qualifications of the Expert Reviewer:

The 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 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.

Case Summary:

Disclaimer: The following case summary was taken directly from the utilization review denial/modification dated July 21, 2013:

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Clinical Rationale

The patient is a 62 year old male with a date of injury of 12/6/2002. Under consideration are prospective requests for 1 spinal surgical consultation second opinion, 1 follow-up with Dr. [REDACTED] management of medications and consideration of the spinal cord stimulator, 1 prescription of Norco 10/325mg #60, an unknown prescription of transdermal analgesic ointments and 1 psychological clearance for a spinal cord

stimulator.

A 1/10/2013 diagnostic report by Dr. [REDACTED] indicates that cotinine was detected in the urine drug test and opiates were not detected. This would suggest that the patient had nicotine in his system and that he had not taken the opiate medication as prescribed. On 5/28/2013, review #1039099 rendered a certification for a surgical consult. A 6/6/2013 progress report by Dr. [REDACTED] indicates that the patient passed a recent spinal cord stimulation trial guided by Dr. [REDACTED] and is now awaiting movement forward towards permanent placement. Objective findings were noted to be unchanged and specific findings were not provided. The patient was provided multiple diagnoses including the following: hepatitis; hypogonadism secondary to opioid use; radiculopathy-cervical; radiculopathy-lumbar; radiculopathy-left upper extremity; post surgical-low back; status post umbilical hernia surgery; status post left inguinal surgery; and status post lumbar fusion L2-3, L3-4, L4-5. The physician requested authorization for a second opinion spinal surgical consultation, follow-up with Dr. [REDACTED] for management of medications and consideration of spinal cord stimulator, psychological clearance prior to spinal cord stimulator placement, Norco 10/325 mg #60 to support him prior to seeing Dr. [REDACTED] who normally provides Norco #180, and transdermal analgesic ointments which were not specified. The patient was to return in four to six weeks. Work status was described as remaining permanent and stationary. The patient was seen by Dr. [REDACTED] on 6/11/13. He had excellent relief of low back pain after the spinal cord stimulator trial. The patient is no longer interested in a second opinion for spinal surgery. The appointment with Dr. [REDACTED] was canceled. The patient was examined and found to have reduced cervical spine range of motion, 4/5 left upper extremity strength, 5/5 right upper extremity strength, decreased sensation in the left C6 and C7 dermatomes, symmetric upper extremity reflexes, decreased lumbar spine range of motion, symmetric lower extremity reflexes, decreased sensation in the left L4 and L5 dermatomes, 4/5 motor strength in the left lower extremity, and 5/5 strength in the right lower extremity. Multiple plans for treatment were noted including refill Norco 10/325 q.4 hours with a recent prescription of 60 by Dr. [REDACTED]. The patient was to be given an additional 120. He was to follow-up in four to six weeks. The report also noted that the patient failed at least six months of conservative treatment including pharmacologic, surgical, psychological, and physical. He has trialed numerous medications. He reportedly has psychological clearance.

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 for Independent Medical Review (received 7/25/13)
- Utilization Review Determination from [REDACTED] (dated 7/21/13)
- Medical records that were submitted were from 2005 only. No recent medical records available for review
- Medical Treatment Utilization Schedule (MTUS)

1) Regarding the request spinal surgical consultation second opinion : Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Neck and Upper Back Complaints Chapter (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 8), page 80, part of the MTUS. The Expert Reviewer found the Neck and Upper Back Complaints Chapter (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 8), page 80, part of the MTUS, and Labor Code 4610.5, medically necessary definition, applicable and relevant to the issue at dispute.

Rationale for the Decision:

The employee sustained an industrial related injury on 12/6/2002. Progress reports indicate that the employee passed a recent spinal cord stimulation trial. The medical records reviewed state that the employee has had excellent relief of low back pain after the spinal cord stimulator trial and is no longer interested in a second opinion for spinal surgery. A request was submitted for a spinal consultation second opinion, Norco 10/325 #60, psychological clearance for spinal cord stimulator and unknown prescription of transdermal analgesic ointments.

The consultation is in accordance with ACOEM guidelines, however, per LC4610.5 (2) "medically necessary" also requires "reasonable" treatment. In this case, since the employee's choice is to try to go without surgery, the treatment is no longer reasonable, and does not fit the definition of medically necessary. Therefore, the request for a spinal surgical consultation, second opinion **is not medically necessary and appropriate.**

2) Regarding the request for Norco 10/325mg #60:

Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines, Norco, no page cited, part of the MTUS. The Expert Reviewer found the Chronic Pain Medical Treatment Guidelines, Long-term Opioid use, criteria for use of opioids, pages 88-89, part of the MTUS, and Chronic Pain Guidelines, Pain Interventions and Treatments, page 11, as applicable and relevant to the issues at dispute.

Rationale for the Decision:

The employee sustained an industrial related injury on 12/6/2002. Progress reports indicate that the employee passed a recent spinal cord stimulation trial. The medical records reviewed state that the employee has had excellent relief of low back pain after the spinal cord stimulator trial and is no longer interested in a second opinion for spinal surgery. A request was submitted for a spinal consultation second opinion, Norco 10/325 #60, psychological clearance for spinal cord stimulator and unknown prescription of transdermal analgesic ointments.

MTUS Chronic Pain guidelines suggest there should not be an attempt to lower opioid dosage if it is working as well. The guidelines further state treatment shall be provided as long as pain persists. The employee has chronic pain, and has considerations for an SCS, but does not yet have the permanent implant. The medical records reviewed indicate that the employee has been stable on Norco 10/325 and it is working well to control the pain. The request for Norco 10/325 #60 **is medically necessary and appropriate.**

3) Regarding the request psychological clearance for spinal cord stimulator:

Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator based its decision on the Chronic Pain Medical Treatment Guidelines Physiological clearance, no section or page cited, part of the MTUS. The Expert Reviewer found the Chronic Pain Medical Treatment Guidelines, Psychological evaluations, IDDS & SCS, page 101, part of the MTUS, applicable and relevant to the issue at dispute.

Rationale for the Decision:

The employee sustained an industrial related injury on 12/6/2002. Progress reports indicate that the employee passed a recent spinal cord stimulation trial. The medical records reviewed state that the employee has had excellent relief of low back pain after the spinal cord stimulator trial and is no longer interested in a second opinion for spinal surgery. A request was submitted for a spinal consultation second opinion, Norco 10/325 #60, psychological clearance for spinal cord stimulator and unknown prescription of transdermal analgesic ointments.

MTUS Chronic Pain guidelines recommend psychological clearance prior to SCS trial. The utilization review report, states the employee has already had a psychological clearance and the SCS trial. The psychological evaluation prior to the SCS trial was medically necessary. A second psychological evaluation, after the SCS trial is not in accordance with MTUS guidelines. The request for a psychological clearance for spinal cord stimulator **is not medically necessary and appropriate.**

4) **Regarding the request unknown prescription of transdermal analgesic ointments:**

Medical Treatment Guideline(s) Relied Upon by the Expert Reviewer to Make His/Her Decision:

The Claims Administrator did not provide an evidence-basis to support their decision. The Expert Reviewer found the Chronic Pain Medical Treatment Guidelines, Topical Analgesics, pages 111-113, part of the MTUS and the Labor Code section 4610.5, medically necessary definition, applicable and relevant to the issues at dispute.

Rationale for the Decision:

The employee sustained an industrial related injury on 12/6/2002. Progress reports indicate that the employee passed a recent spinal cord stimulation trial. The medical records reviewed state that the employee has had excellent relief of low back pain after the spinal cord stimulator trial and is no longer interested in a second opinion for spinal surgery. A request was submitted for a spinal consultation second opinion, Norco 10/325 #60, psychological clearance for spinal cord stimulator and unknown prescription of transdermal analgesic ointments.

There is no description in the medical records provided for review of what “topical analgesic” was prescribed or the rationale. The request for authorization form requires the physician provide information to support the request. This has not been done, and without a description of the topical analgesic, it cannot be compared accurately to MTUS criteria. The unknown topical analgesic cannot be confirmed to be in accordance with MTUS, and therefore does not meet the

definition of “medically necessary”. The request for an unknown prescription of transdermal analgesic ointments **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;

Richard C. Weiss, MD, MPH, MMM, PMP
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.