

**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: 10/22/2013

[REDACTED]

[REDACTED]

Employee:	[REDACTED]
Claim Number:	[REDACTED]
Date of UR Decision:	7/16/2013
Date of Injury:	9/2/2010
IMR Application Received:	7/29/2013
MAXIMUS Case Number:	CM13-0004484

- 1) MAXIMUS Federal Services, Inc. has determined the request for CBT 2 times a week for 3 weeks **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for Biofeedback 2 times a week for 3 weeks **is not medically necessary and appropriate.**

## INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/29/2013 disputing the Utilization Review Denial dated 7/16/2013. A Notice of Assignment and Request for Information was provided to the above parties on 8/6/2013. 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 CBT 2 times a week for 3 weeks **is not medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for Biofeedback 2 times a week for 3 weeks **is not medically necessary and appropriate.**

### Medical Qualifications of the Expert Reviewer:

The independent Expert Reviewer who made the decision has no affiliation with the employer, employee, providers or the claims administrator. The expert reviewer is Licensed in Psychology, 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 16, 2013:

"According to the clinical documentation, the patient is a 38-year-old who sustained low back injury while lifting and carrying a box on 9/02/10. Progress report dated 6/25/13 by chiropractor [REDACTED], documented the patient was followed up for postop reevaluation and wound check from previous lumbar spine surgery on 6/18/13. Patient did not have signs of infection and there was a well healed incision area. There was some redness over the area of the taping, which needed to be addressed. Patient was to start on short course of Keflex. Magnetic resonance imaging (MRI) study of the lumbar spine dated 8/08/12, was reviewed that documented findings of central right paracentral disc herniation at L4-5 measuring 6.9 mm on non-load-bearing views and 7.7 mm on loadbearing views that resulted in moderate bilateral neuroforaminal narrowing and moderate canal stenosis with non-load-bearing views and moderate-to-severe canal stenosis with load-bearing -views. The rest of the MRI did not show any significant pathology or degenerative findings that would indicate the patient's symptoms. There was no objective interpretation of the MRI results attached in the medical report submitted. Chiropractor [REDACTED] documented that the patient's pain on examination and consultation and treatment clearly were related to the disc herniation and to the work injury on 9/2010 when the patient felt a sharp pain in the back after moving a box. Current complaints included constant, dull, achy low back pain with pain rate of 3/10 at rest and 7/10 at worse. Patient complained of intermittent numbness and tingling "in the right lower extremity to the knee." Patient also complained of difficulty sleeping due to pain and stress. Other complaints included stress, anxiety, and depression causing gastrointestinal upset and abnormal weight gain of approximately 25 pounds. Physical exam showed patient with blood pressure of 140/78 mmHg, weight of 205 pounds, pulse rate was 76 and height was five feet and seven inches. Patient sat up from supine with difficulty. Thoracolumbar spine evaluation revealed positive palpation and paraspinal spasm over the bilateral

paravertebral musculature. Lumbar spine active range of motion on flexion was 45 degrees, extension was 15 degrees, left and right lateral flexion was 20 degrees, left and right rotation was 15 degrees. Kemp's test, Miligram's test and Vasalva test was positive bilaterally. Deep tendon reflexes were +2 at bilateral Achilles and Patella areas. Sensory evaluation of the lower extremities was within normal limits. Treatment plan consisted of follow-up for orthopedic care and cognitive behavioral therapy (CBT) and biofeedback two times a week for three weeks. Patient underwent surgery one week ago and was having significant anxiety and stress related to the pain and surgery. Chiropractor [REDACTED] opined a short course of CBT and biofeedback would allow the patient to relax that would allow chiropractor [REDACTED] to properly provide postoperative care to promote healing. Initial comprehensive preoperative consultation report dated 6/10/13 by Dr. [REDACTED], documented the patient received physical therapy and injection in the past. Current medications at this time included albuterol inhaler pm, Celexa and Xanax. Dose and scheduled use of these medications were not documented. Nurse case summary documented the patient was status post decompression and discectomy at L4-L5 with post lateral fusion, bone graft, pedicle screw fixation, and posterior interbody fusion with implants at L4 and L5 bilateral with left iliac aspiration, spinal cord monitoring and with running electromyography (EMG) evoked potential monitoring and pedicle screw stimulation on 9/17/13. According to Progress report dated 6/25/13 by chiropractor [REDACTED], the patient was diagnosed with status post lumbar spine fusion L4-5. This is a request for medical necessity of cognitive behavioral therapy (CBT) two times a week for three weeks (2x3) and biofeedback two times a week for three weeks (2x3)."

#### **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 7/29/2013)
- Utilization Review Determination from [REDACTED] (dated 7/16/2013)
- Employee medical records from Employee Representative
- Medical Treatment Utilization Schedule (MTUS)

#### **1) Regarding the request CBT 2 times a week for 3 weeks:**

##### 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, page 23, Behavioral Interventions, which is part of the California Medical Treatment Utilization Schedule (MTUS). The Claims Administrator also cited the Official Disability Guidelines (ODG), Cognitive Behavioral Therapy (CBT) guidelines for chronic pain, which is a medical treatment guideline that is not part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer relied on the Chronic Pain Medical Treatment Guidelines (2009), page 3, which is part of the MTUS.

##### Rationale for the Decision:

The employee sustained low back injury while lifting and carrying a box on 9/2/2010 and is experiencing stress, anxiety, and depression causing gastrointestinal upset and difficulty sleeping. A progress report dated 6/25/2013

documented the employee was followed up for postop re-evaluation and wound check from previous lumbar spine surgery on 6/18/2013. The medical records provided for review indicate treatments have included medications, physical therapy, and injection. A request for CBT two (2) times a week for three (3) weeks was submitted.

The treatment request is in response to acute pain and related symptoms associated with the recent surgery. The California MTUS Chronic Pain Medical Treatment Guidelines indicate that most acute pain is self-limited and may respond to short term administration of analgesics and conservative therapies. However, continued activation of nociceptors with less than adequate pain control can lead to peripheral and central sensitization, a risk factor for persistent pain with prolonged disability, delayed return to baseline function, and delayed return to work. The request for CBT two (2) times a week for three (3) weeks is **not medically necessary or appropriate.**

## 2) Regarding the request for Biofeedback 2 times a week for 3 weeks:

### 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, pages 24-25, Biofeedback, which are part of the California Medical Treatment Utilization Schedule (MTUS). The Claims Administrator also cited the Official Disability Guidelines (ODG), biofeedback therapy guidelines, which is a medical treatment guideline that is not part of the MTUS. The provider did not dispute the guidelines used by the Claims Administrator. The Expert Reviewer relied on the Chronic Pain Medical Treatment Guidelines (2009), page 3, which is part of the MTUS.

### Rationale for the Decision:

The employee sustained low back injury while lifting and carrying a box on 9/2/2010 and is experiencing stress, anxiety, and depression causing gastrointestinal upset and difficulty sleeping. A progress report dated 6/25/2013 documented the employee was followed up for postop re-evaluation and wound check from previous lumbar spine surgery on 6/18/2013. The medical records provided for review indicate treatments have included medications, physical therapy, and injection. A request for CBT two (2) times a week for three (3) weeks was submitted.

The treatment request is in response to acute pain and related symptoms associated with the recent surgery. The California MTUS Chronic Pain Medical Treatment Guidelines indicate that most acute pain is self-limited and may respond to short term administration of analgesics and conservative therapies. However, continued activation of nociceptors with less than adequate pain control can lead to peripheral and central sensitization, a risk factor for persistent pain with prolonged disability, delayed return to baseline function, and delayed return to work. The request for CBT two (2) times a week for three (3) weeks is **not medically necessary or 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, 18<sup>th</sup> Floor  
Oakland, CA 94612

/skf

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.