

MAXIMUS FEDERAL SERVICES, INC.

Independent Medical Review

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Notice of Independent Medical Review Determination

Dated: 10/31/2013

[REDACTED]

[REDACTED]

| | |
|---------------------------|--------------|
| Employee: | [REDACTED] |
| Claim Number: | [REDACTED] |
| Date of UR Decision: | 7/18/2013 |
| Date of Injury: | 3/2/2007 |
| IMR Application Received: | 7/31/2013 |
| MAXIMUS Case Number: | CM13-0005119 |

- 1) MAXIMUS Federal Services, Inc. has determined the request for one (1) CT scan of the lumbar spine with reconstruction **is medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for one (1) EMG/NCV lower extremities **is medically necessary and appropriate.**

INDEPENDENT MEDICAL REVIEW DECISION AND RATIONALE

An application for Independent Medical Review was filed on 7/31/2013 disputing the Utilization Review Denial dated 7/18/2013. A Notice of Assignment and Request for Information was provided to the above parties on 8/14/2013. 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 one (1) CT scan of the lumbar spine with reconstruction **is medically necessary and appropriate.**
- 2) MAXIMUS Federal Services, Inc. has determined the request for one (1) EMG/NCV lower extremities **is 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, 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 orthopedic consultation report dated 7/2/13 by Dr. [REDACTED] noted that the patient is a 32-year-old male with a date of injury to his low back on 3/2/2007. The patient has been diagnosed with failed back syndrome with multiple spine surgeries and instrumentation at L4-L5 with continued back pain and lower extremity radicular pain. The patient underwent low back surgery in October 2007. In April 2009, due to persistent low back pain, the patient underwent surgery to remove hardware in his lower back. The patient then began to feel unstable and he would walk with an uneven gait. As a result he began to experience pain in his neck, bilateral shoulders, and bilateral lower extremities. In February, 2010, the patient had a third low back surgery to remove 2 injured discs. The patient was provided with a lumbar support brace and he was provided with post-operative physical therapy (PT) for approximately one year with no relief. The patient was then referred to Dr. [REDACTED] for pain management. He continued to see Dr. [REDACTED] for medication refills and was last seen on 6/7/13.

The 7/2/13 progress report noted that the patient complained of constant low back and bilateral leg pain rated at 7/10 on average. Exam findings included decreased lumbar range of motion (ROM), positive straight leg raise right and left, and decreased sensation in the L5-S1 nerve root distribution. Lumbar x-rays on 7/2/13 revealed pedicle screw instrumentation and PEEK interbody device at L4-L5. It was noted that there appears to be a breach in the medial cortex of the L4 pedicle. The CT scan with reconstruction was requested for evaluation of the hardware, to look for breach of the pedicle walls as well as to assess for fusion at L4-L5. Electromyography/nerve conduction velocity (EMG/NCV) studies of the lower extremities were requested for evaluation for chronic nerve root damage.

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 Claims Administrator
- Medical Treatment Utilization Schedule (MTUS)

1) Regarding the request for one (1) CT scan of the lumbar spine with reconstruction:

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 Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12, page 303), which is part of the MTUS and ACOEM (2007), Chapter 12, page 59, which is not part of the MTUS.

The Expert Reviewer based his/her decision on the Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), page 303, which are part of the MTUS.

Rationale for the Decision:

The ACOEM state if physiologic evidence indicates tissue insult or nerve impairment, the practitioner can discuss with a consultant the selection of an imaging test to define a potential cause (magnetic resonance imaging (MRI) for neural or other soft tissue, computer tomography (CT) for bony structures). The records submitted and reviewed indicate the employee is diagnosed with failed back syndrome with multiple spine surgeries and instrumentation at L4-L5 with continued back pain and lower extremity radicular pain. Lumbar x-rays taken on 7/2/13 revealed pedicle screw instrumentation and PEEK interbody device at L4-L5. It was noted that there appears to be a breach in the medial cortex of the L4 pedicle. The CT scan with reconstruction was requested for evaluation of the hardware, to look for breach of the pedicle walls, as well as to assess for fusion at L4-L5. As the requested CT is for evaluation of bony structure, its use is consistent with the guidelines. **The request for one (1) CT scan of the lumbar spine with reconstruction is medically necessary and appropriate.**

2) Regarding the request for one (1) EMG/NCV lower extremities:

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 Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12, page 303), which

are part of the MTUS, and the Official Disability Guidelines (ODG), Low Back, NCS, which is not part of the MTUS.

The Expert Reviewer based his/her decision on the Low Back Complaints (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 12), page 303, which are part of the MTUS.

Rationale for the Decision:

The ACOEM state "Electromyography (EMG), including H-reflex tests, may be useful to identify subtle, focal neurologic dysfunction in patients with low back symptoms lasting more than three or four weeks." The records submitted and reviewed indicate the employee is diagnosed with failed back syndrome with multiple spine surgeries and instrumentation at L4-L5 with continued back pain and lower extremity radicular pain. The 7/2/13 progress report noted that the employee complained of constant low back and bilateral leg pain rated at 7/10 on average. Exam findings included decreased lumbar ROM, positive straight leg raise right and left, and decreased sensation in the L5-S1 nerve root distribution. The EMG and NCV studies of the lower extremities were requested for evaluation for chronic nerve root damage and appears to be supported by the guidelines. **The request for one (1) EMG/NCV of the lower extremities is 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

/sab

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.