

<b>Case Number:</b>	CM13-0071226		
<b>Date Assigned:</b>	07/02/2014	<b>Date of Injury:</b>	11/05/2000
<b>Decision Date:</b>	10/02/2014	<b>UR Denial Date:</b>	12/10/2013
<b>Priority:</b>	Standard	<b>Application Received:</b>	12/27/2013

### HOW THE IMR FINAL DETERMINATION WAS MADE

MAXIMUS Federal Services sent the complete case file to an expert reviewer. He/she has no affiliation with the employer, employee, providers or the claims administrator. The expert 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 disputed items/services. He/she is familiar with governing laws and regulations, including the strength of evidence hierarchy that applies to Independent Medical Review determinations.

### CLINICAL CASE SUMMARY

The expert reviewer developed the following clinical case summary based on a review of the case file, including all medical records:

The applicant is a represented [REDACTED] employee who has filed a claim for chronic low back pain reportedly associated with an industrial injury of November 5, 2000. Thus far, the applicant has been treated with the following. Analgesic medications; attorney representation; opioid therapy; adjuvant medications; unspecified amounts of physical therapy; earlier lumbar fusion surgery; multiple interventional spine injections for the spine; and transfer of care to and from various providers in various specialties. In a Utilization Review Report dated December 5, 2013, the claims administrator approved a request for Cymbalta, denied a request for fentanyl, denied a request for Nuvigil, denied a request for Norco, and approved a request for Inderal. The applicant's attorney subsequently appealed. In a progress note dated July 12, 2013, the applicant reported persistent complaints of low back, neck, and bilateral arm pain, ranging from 6 to 7/10. Low back hardware injections were apparently sought. Cymbalta, Inderal, Lidoderm, Norco, Nuvigil, and Protonix were refilled. It was stated that the applicant was working with limitations. The applicant did report review of systems that was notable for heartburn. In a December 6, 2013 progress note, the applicant reported persistent complaints of low back, leg, neck, and arm pain, rated at 8/10. The attending provider stated that the applicant still had significant pain levels despite medications. The attending provider stated that the applicant was awaiting further surgical fixation for the lumbar spine, but noted that the applicant was able to maintain return to work status with ongoing medication consumption. The attending provider posited that ongoing usage of medications had ameliorated the applicant's functional capacity. The applicant was using Aleve, Cymbalta, Duragesic, Inderal, Lidoderm, Norco, and Nuvigil. Multiple medications were renewed. It was again stated that the applicant was working with restrictions. Laboratory testing was endorsed.

## IMR ISSUES, DECISIONS AND RATIONALES

The Final Determination was based on decisions for the disputed items/services set forth below:

**Fentanyl 25 mcg 1 hr patch, # 10:** Overturned

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 76-80.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Opioids Page(s): 80.

**Decision rationale:** As noted on page 80 in the MTUS Chronic Pain Medical Treatment Guidelines, the cardinal criteria for continuation of opioid therapy, include evidence of successful return to work, improved functioning, and/or reduced pain achieved as a result of the same. In this case, the attending provider's documentation, while incomplete, does establish that the applicant has, in fact, returned to modified duty work, reportedly with ongoing medication usage and that the applicant is, furthermore, reporting appropriate analgesia with the same. Continuing Duragesic, on balance, is therefore indicated. Accordingly, the request is medically necessary.

**Nuvigil 250 mg # 30 refills 4:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 76-80.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 7-8. Decision based on Non-MTUS Citation Food and Drug Administration (FDA), Nuvigil Medication Guide.

**Decision rationale:** While the MTUS does not specifically address the topic of Nuvigil, pages 7 and 8 of the MTUS Chronic Pain Medical Treatment Guidelines do stipulate that an attending provider using a drug for non-FDA labeled purposes has the responsibility to be well informed regarding usage of the same and should, furthermore, furnish some compelling evidence to support such usage. The Food and Drug Administration (FDA) notes that Nuvigil (armodafinil) is indicated to improve wakefulness in applicants with excessive sleepiness associated with obstructive sleep apnea, hypopnea syndrome, narcolepsy, and/or shift work disorder. In this case, however, there was no evidence that the applicant carried any of the aforementioned diagnoses. Rather, it appears that Nuvigil is being employed to combat opioid-induced sedation, which is not an FDA approved indication for the same. The attending provider did not proffer any compelling applicant-specific rationale or medical evidence so as to offset the unfavorable FDA position on Nuvigil in the context for which is seemingly being employed here. Therefore, the request is not medically necessary.

**Norco 10-325mg # 240:** Overturned

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines  
Page(s): 76-80.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Opioids  
Page(s): 80.

**Decision rationale:** As noted on page 80 of the MTUS Chronic Pain Medical Treatment Guidelines, the cardinal criteria for continuation of opioid therapy, include evidence of successful return to work, improved functioning, and/or reduced pain achieved as a result of the same. In this case, the applicant has achieved and maintained successful return to work status with ongoing usage of Norco. The attending provider continues to report that the applicant is deriving appropriate analgesia through ongoing usage of the same, it is further noted. Continuing the same, on balance, is therefore, indicated. Accordingly, the request is medically necessary.