

<b>Case Number:</b>	CM14-0170868		
<b>Date Assigned:</b>	10/23/2014	<b>Date of Injury:</b>	07/30/1998
<b>Decision Date:</b>	01/02/2015	<b>UR Denial Date:</b>	10/07/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	10/16/2014

### 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 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 neck, ankle, shoulder, knee, and foot pain reportedly associated with an industrial injury of July 30, 1998. Thus far, the applicant has been treated with the following: Analgesic medications; transfer of care to and from various providers in various specialties; long and short-acting opioids; adjuvant medications; and unspecified amounts of physical therapy. In a Utilization Review Report dated October 6, 2014, the claims administrator failed to approve request for Nuvigil, Ambien, Norco, Cymbalta, morphine, Topamax, Prozac, and diclofenac. The applicant's attorney subsequently appealed. In an April 8, 2014 progress note, the applicant reported ongoing complaints of neck, knee, and ankle pain, 3/10 with medications versus 7/10 without medications. The attending provider stated that the applicant's ability to perform basic household activities of daily living was reportedly improved with pain medications. The applicant's medication list included Ambien, Flector, Norco, Cymbalta, morphine, Topamax, phentermine, Zipsor, Zanaflex, oral contraceptives, and Synthroid. Somewhat incongruously, the attending provider then wrote in another section of the note that the applicant felt that Cymbalta was not helping and was generating too many side effects. The applicant stated that she had done better emotionally following introduction of Prozac. The applicant was asked to taper off of Cymbalta and continue with Prozac. Cognitive behavioral therapy was endorsed. The applicant stated that name-brand medications are more effective here. Prozac, Zipsor, tizanidine, and morphine were endorsed. The applicant's permanent work restrictions were renewed. It did not appear that the applicant was working with said permanent limitations in place. In an October 9, 2014 progress note, the applicant again presented with issues with leg pain, shoulder pain, and neck pain. The applicant was using Ambien, Norco, Cymbalta, morphine, Topamax, Voltaren, Nuvigil, Synthroid, and Vivelle, it was stated. The applicant was status post multiple shoulder, ankle, and wrist

surgeries, it was acknowledged. The attending provider acknowledged that the applicant did not have issues with narcolepsy or shift disorder. Permanent work restrictions were renewed. The applicant did not appear to be working with said permanent limitations in place.

### **IMR ISSUES, DECISIONS AND RATIONALES**

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

**Nuvigil 250mg #30:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Pain, Modafini (Provigil).

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Functional Restoration Approach to Chronic Pain Management section 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 address the topic of Nuvigil usage, 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 a responsibility to be well informed regarding usage of the same and should, furthermore, furnish compelling evidence to support such usage. The Food and Drug Administration (FDA) notes that Nuvigil is indicated to improve wakefulness in applicants with excessive sleepiness associated with obstructive sleep apnea, narcolepsy, and/or shift work disorder. Acknowledged by the attending provider, the applicant does not have issues with either obstructive sleep apnea or narcolepsy. The applicant is not working, making a shift work disorder highly unlikely. Therefore, the request is not medically necessary.

**Ambien 10mg #30:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Stress and Mental Illness Chapter.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Functional Restoration Approach to Chronic Pain Management section Page(s): 7-8. Decision based on Non-MTUS Citation Food and Drug Administration (FDA), Ambien Medication Guide.

**Decision rationale:** While the MTUS does not specifically address the topic of Ambien usage, pages 7 and 8 of the MTUS Chronic Pain Medical Treatment Guidelines do stipulate that an attending provider employing a drug for non-FDA labeled purposes has the responsibility to be well informed regarding usage of the same and should, furthermore, furnish compelling evidence to support such usage. The Food and Drug Administration (FDA) notes that Ambien is indicated in the short-term treatment of insomnia, for up to 35 days. Here, however, the applicant appears to have been using Ambien for what appears to be a span of several months to several years.

Such usage, however, is incompatible with the FDA label, the treated acknowledged. No compelling applicant-specific rationale or medical evidence was furnished so as to offset the unfavorable FDA position on the article at issue. Therefore, the request is not medically necessary.

**Norco 10/325mg #120:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Opioids Page(s): 76-80. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Pain Chapter, Opioids, Dosing.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines When to Continue Opioids topic 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. Here, however, the applicant is off of work. Permanent work restrictions remain in place, seemingly unchanged from visit to visit. The attending provider's comments to the effect that the applicant is able to perform basic household chores with medications do not, in and of themselves, constitute evidence of substantive improvement achieved as a result of ongoing Norco usage. While the attending provider did previously state on April 8, 2014 that the applicant had reported some decrements in pain scores with ongoing Norco usage, this is, however, outweighed by the applicant's failure to return to work and the attending provider's failure to outline any meaningful improvements in function achieved as a result of ongoing Norco usage. Therefore, the request is not medically necessary.

**Morphine Sulfate CR 15mg #60:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Opioids Page(s): 76-80. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Pain Chapter, Opioids, Dosing.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines When to Continue Opioids topic 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, however, the applicant is off of work. Permanent work restrictions remain in place, seemingly unchanged, from visit to visit. The attending provider has failed to outline any meaningful improvements in function achieved as a result of ongoing morphine usage. While the attending provider did report some reduction in pain scores noted with ongoing medication consumption on an April 8, 2014 office visit, these reports of pain reduction, however, are outweighed by the applicant's failure to return to work and the attending provider's failure to

outline any meaningful improvements in function achieved as a result of ongoing opioid usage, including ongoing morphine usage. Therefore, the request is not medically necessary.

**Topamax 50mg #60: Upheld**

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Anti-Epilepsy Drugs (AEDs), Page(s): 16.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Topiramate section, Functional Restoration Approach to Chronic Pain Management section Page(s):.

**Decision rationale:** While page 21 of the MTUS Chronic Pain Medical Treatment Guidelines does acknowledge that Topamax, an anticonvulsant adjuvant medication, is still considered for use when other anticonvulsants fail, this request, however, is qualified by commentary made on page 7 of the MTUS Chronic Pain Medical Treatment Guidelines to the effect that an attending provider should incorporate some discussion of efficacy of medication into his choice of recommendations. Here, however, the applicant is off of work. Permanent work restrictions remain in place, seemingly unchanged, from visit to visit. The attending provider has failed to outline any meaningful improvements in function achieved as a result of ongoing Topamax usage. Ongoing usage of Topamax has failed to curtail the applicant's dependence on opioid agents such as Norco and morphine. All of the foregoing, taken together, suggests a lack of functional improvement as defined in MTUS 9792.20f, despite ongoing usage of Topamax. Therefore, the request is not medically necessary.

**Prozac 20mg #30: Overturned**

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Antidepressants Page(s): 13-16.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 15 Stress Related Conditions Page(s): 402.

**Decision rationale:** The attending provider's progress notes, referenced above, do suggest that introduction of Prozac has ameliorated the applicant's issues with emotional mood disturbance apparently arising from her chronic pain. As noted in the MTUS-adopted ACOEM Guidelines in Chapter 15, page 402, antidepressants such as Prozac may be helpful to alleviate symptoms of depression, as are apparently present here. Given the applicant's favorable response to previous usage of Prozac, continuing the same, on balance, is indicated. Therefore, the request is medically necessary.

**Diclofenac Sodium EC 25mg #60: Upheld**

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines NSAIDs Page(s): 67-68.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Anti-Inflammatory Medications topic Page(s): 22.

**Decision rationale:** As with the many other medications, this is a renewal request. While page 22 of the MTUS Chronic Pain Medical Treatment Guidelines does acknowledge that anti-inflammatory medications such as diclofenac do represent the traditional first line of treatment for various chronic pain conditions, including the chronic pain syndrome reportedly present here, this recommendation, however, is qualified by commentary made on page 7 of the MTUS Chronic Pain Medical Treatment Guidelines to the effect that an attending provider should incorporate some discussion of medication efficacy into his choice of recommendations. Here, however, ongoing usage of diclofenac has failed to produce requisite improvements in pain and/or function needed to justify continuation of the same. The applicant is off of work. Permanent work restrictions remain in place, seemingly unchanged, from visit to visit. The applicant is having difficulty performing activities of daily living as basic as standing and walking, despite ongoing usage of diclofenac. Ongoing usage of diclofenac has failed to curtail the applicant's dependence on opioid agents such as Norco and morphine. All of the foregoing, taken together, suggests a lack of functional improvement as defined in MTUS 9792.20f, despite ongoing usage of the same. Therefore, the request is not medically necessary.