

MDR Tracking Number: M5-05-1282-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-25-04.

In accordance with Rule 133.308 (e), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date of service is not timely and is not eligible for this review: 10-20-03.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The Ocean Saline nasal spray and Tears Natural from 11-13-03 through 8-21-04 **were found** to be medically necessary. The colace from 11-13-03 through 8-21-04 **was not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c); in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(6); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 11-13-03 through 8-21-04 in this dispute.

This Decision and Order is hereby issued this 1st day of March 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision

February 14, 2005

Texas Workers Compensation Commission
MS48
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1609

**NOTICE OF INDEPENDENT REVIEW DECISION
Amended Determination 2/25/05**

**RE: MDR Tracking #: M5-05-1282-01
TWCC #:
Injured Employee:
Requestor:
Respondent: Valley Forge Insurance
MAXIMUS Case #: TW05-0003**

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the MAXIMUS external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in internal medicine and is familiar with the condition and treatment options at issue in this appeal. The MAXIMUS physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. In addition, the MAXIMUS physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a female who sustained a work related injury on _____. The patient reported that while at work she was exposed to pain and glue fumes, causing chest congestion and aching in her lungs. A Pulmonary Function Test performed on 3/3/94 indicated moderate obstructive pulmonary disease and severe reactive airway disease. Treatment for this patient's condition has included antibiotics, nasal irrigations, inhalants and corticosteroids. The patient explained in a letter that she had also suffered from a recurrent cystocele due to her coughing from the exposure to the fumes. The patient reported that on 5/25/99 she underwent bladder

surgery. The diagnoses for this patient have included occupational exposure to dust and irritating fumes and odors at worksite, probable reactive airway, chronic recurrent sinusitis, allergic rhinitis, costochondralgia, and relaxed pelvic floor with urethrocytocele. The patient is status post sinus surgery consisting of antral punctures, endoscopic nasal surgery, submucosa resection, and removal of the turbinates in 1/1992.

Requested Services

Ocean Saline Nasal Spray, Tears Natural, Colace from 11/13/03 through 8/21/04.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. History of Patient's Illness
2. Letters of Medical Necessity 9/12/02, 6/16/04, 3/10/04, 5/24/01, 11/22/00, 9/17/98, 12/1/00, 8/10/01,
3. Required Medical Evaluation 8/25/04
4. Respiratory Physician Report of Medical Evaluation 3/7/94
5. Respiratory Letter of Medical Necessity and Medical Evaluation 2/7/95
6. Information on Xylol
7. TWCC Appeal Determination 12/4/01
8. Bad Faith Claim against Carrier 12/5/94
9. Benefit Review Conference Report 7/12/01 and 9/20/01
10. Gynecological Medical Review 5/14/93 – 4/30/97
11. Internist and Allergy Letters of Medical Necessity and Medical Review reports 3/9/93 – 7/7/95
12. Immunology and Allergy Medical Review reports and Update Letters 5/18/93 – 2/1/96

Documents Submitted by Respondent:

1. Injection Sheets from 1991, 1992, 1993
2. Progress Records 12/24/92 – 4/12/93
3. History and Physical 2/22/94
4. Pulmonary Function Study report 3/3/94
5. Medical records, letters of medical necessity, progress notes from 1993, 1994, 1995, 1996, 1997, 1998, and 2000

Decision

The Carrier's denial of authorization for the requested services is partially overturned.

Rationale/Basis for Decision

The MAXIMUS physician reviewer noted that this case concerns a female who sustained a work related injury on _____. The MAXIMUS physician reviewer indicated that treatment for this patient's condition has included medications consisting of Tears Natural, Ocean Saline nasal

spray, and Colace. The MAXIMUS physician reviewer explained that the Ocean Saline nasal spray and Tears Natural are reasonable and necessary treatment for this patient's condition. The MAXIMUS physician reviewer indicated that these medications are part of an accepted regimen for treatment of chronic allergies, sinusitis, and ocular allergic symptoms. However, the MAXIMUS physician reviewer explained that colace is not reasonable and necessary. The MAXIMUS physician reviewer indicated that the claimant had undergone repair of the underlying problem. The MAXIMUS physician reviewer explained that long term treatment with stool softener is not necessary after a normal period of healing from surgery (approximately the end of 1999). Therefore, the MAXIMUS physician consultant concluded that the Ocean Saline Nasal Spray, Tears Natural from 11/13/03 through 8/21/04 were medically necessary to treat this patient's condition. However, the MAXIMUS physician consultant also concluded that the Colace from 11/13/03 through 8/21/04 was not medically necessary to treat this patient's condition.

Sincerely,
MAXIMUS

Elizabeth McDonald
State Appeals Department