

<b>Case Number:</b>	CM13-0019858		
<b>Date Assigned:</b>	10/11/2013	<b>Date of Injury:</b>	06/24/2005
<b>Decision Date:</b>	01/16/2014	<b>UR Denial Date:</b>	08/06/2013
<b>Priority:</b>	Standard	<b>Application Received:</b>	09/04/2013

### HOW THE IMR FINAL DETERMINATION WAS MADE

MAXIMUS Federal Services sent the complete case file to a physician reviewer. He/she has no affiliation with the employer, employee, providers or the claims administrator. The physician 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 physician 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, chronic mid back pain, chronic neck pain, depression, anxiety, chronic shoulder pain, and posttraumatic headaches reportedly associated with industrial injury of June 24, 2005. Thus far, the applicant has been treated with the following: Analgesic medications; prior lumbar spine surgery; attorney representation; psychotropic medications; transfer of care to and from various providers in various specialties; and the apparent imposition of permanent work restrictions. In a Utilization Review Report of August 5, 2013, the claims administrator denied a request for gym membership, citing a non-MTUS ODG guideline. The applicant's attorney later appealed, on August 23, 2013. An earlier clinical progress note of July 22, 2013 is notable for the comments that the applicant reports persistent moderate to severe low back pain radiating to the bilateral lower extremities. The applicant is using medical marijuana and is reportedly allergic to numerous opioids. He exhibits moderate restriction in range of motion about the cervical and lumbar spines with a non-antalgic gait. The applicant is able to walk on his toes and heels. Sensory function is within normal limits. Recommendations are made for the claimant to continue medications, follow up with an agreed medical evaluator, consult a spine surgeon, and obtain a gym membership. Permanent work restrictions are again renewed.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Gym membership for 6 months:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation ODG Treatment in Workers' Comp, 11th edition, Low Back (updated 5/10/13)

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Cornerstones of Disability Prevention and Management (ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 5) and Official Disability Guidelines (ODG) Integrated Treatment/Disability Duration Guidelines Low Back Problems

**Decision rationale:** As noted in the MTUS-adopted ACOEM Guidelines in Chapter 5, remaining and staying active, maintaining and adhering to exercise and medication regimens, and attending appointments are matters of applicant responsibility as opposed to the matters of medical necessity. The unfavorable ACOEM recommendation is echoed by that of the ODG low back chapter gym membership topic, which suggests that gym memberships are not recommended unless there is evidence that home exercise program has been ineffectual and that there is a need for specialized equipment. In this case, however, the attending provider has not clearly stated that a home exercise program has been ineffectual and that there is a need for specialized equipment. The specific equipment that the claimant might need access to has not been clearly detailed, it is further noted. Therefore, the proposed six-month gym membership is not certified, on independent medical review.