

<b>Case Number:</b>	CM13-0034878		
<b>Date Assigned:</b>	03/21/2014	<b>Date of Injury:</b>	11/24/2009
<b>Decision Date:</b>	04/30/2014	<b>UR Denial Date:</b>	10/07/2013
<b>Priority:</b>	Standard	<b>Application Received:</b>	10/15/2013

### 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 has filed a claim for chronic low back pain, bilateral foot pain, bilateral knee pain, and obstructive sleep apnea reportedly associated with an industrial injury of November 24, 2009. Thus far, the applicant has been treated with the following: Analgesic medications; attorney representations; transfer of care to and from various providers in various specialties; topical compounds; and earlier lumbar fusion surgery. In a Utilization Review Report of October 7, 2013, the claims administrator denied a podiatry consultation, approved bilateral knee MRI imaging, denied x-rays of unspecified body parts, denied acupuncture for the lumbar spine, partially certified 17 sessions of postoperative physical therapy, approved Prilosec, denied Medrox, approved a trial of flurbiprofen gel, denied ketoprofen compound, denied a gabapentin compound and approved a limited form of urine drug testing. The applicant's attorney subsequent appealed.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**ACUPUNCTURE OF THE LUMBAR SPINE:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS Acupuncture Treatment Guidelines.

**Decision rationale:** While the Acupuncture Medical Treatment Guidelines in MTUS 9792.24.1.a1 note that acupuncture can be employed for a wide variety of purposes, including in the postsurgical pain context present here, MTUS 9792.24.1.c1 notes that the time deemed necessary to produce functional improvement following introduction of acupuncture is three to six treatments. In this case, however, the attending provider has seemingly requested acupuncture in an open-ended fashion. No quantity or frequency of acupuncture was proposed here. Since conditional or qualified certifications are not permissible through the Independent Medical Review process, the request is wholly not certified.

**AQUATIC THERAPY 2-3 TIMES A WEEK FOR A MONTH OR 2, THEN TO TWICE A WEEK IN WATER AND TWICE A WEEK ON LAND-BASED WHEN READY:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Aquatic Therapy Page(s): 22, Postsurgical Treatment Guidelines.

**Decision rationale:** As noted in MTUS 9792.23.b2, the Postsurgical Treatment Guidelines in section 9792.24.3 shall apply together with any other applicable treatment guidelines found within the MTUS. Since page 22 of the MTUS Chronic Pain Medical Treatment Guidelines did address the need for aquatic therapy, it was invoked here, although this is, strictly speaking, a postoperative case as opposed to a chronic pain case.

**PRESCRIPTION OF MEDROX PATCHES:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 111-112.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Topical Analgesics Page(s): 111.

**Decision rationale:** As noted on page 111 of the MTUS Chronic Pain Medical Treatment Guidelines, topical analgesics, as a class, are "largely experimental." In this case, there is no evidence of intolerance to and/or failure of multiple classes of first-line oral pharmaceuticals so as to justify usage of largely experimental topical agents and/or topical compounds. It is incidentally noted that the applicant was described on December 12, 2013 progress note as using multiple adjuvant medications, including antidepressants and anticonvulsants such as Wellbutrin, Celexa, and Neurontin, effectively obviating the need for Medrox. Therefore, the request is not certified, on Independent Medical Review.

**PRESCRIPTION OF KETOPROFEN 20%/KETAMINE 10% GEL:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 111-112.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Topical Analgesics. Page(s): 111-112.

**Decision rationale:** As noted on page 112 of the MTUS Chronic Pain Medical Treatment Guidelines, Ketoprofen is not recommended for topical compound formulation purposes. This result in the entire compound's carrying an unfavorable recommendation, per page 111 of the MTUS Chronic Pain Medical Treatment Guidelines. Accordingly, the request is likewise not certified, on Independent Medical Review

**PRESCRIPTION OF GABAPENTIN 10%/CYCLOBENZAPRINE 10%/CAPSAICIN 0.0375%:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Topical Analgesics Page(s): 111-113.

**Decision rationale:** As noted on page 113 of the MTUS Chronic Pain Medical Treatment Guidelines, neither Gabapentin nor Ketoprofen are recommended for topical compound formulation purposes. This likewise results in the entire compound's carrying an unfavorable recommendation, per page 111 of the MTUS Chronic Pain Medical Treatment Guidelines. Therefore, the request is not certified, on Independent Medical Review.

**CONSULTATION WITH A PODIATRIST FOR ORTHOTICS:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 14 Ankle and Foot Complaints Page(s): 371,Chronic Pain Treatment Guidelines Page(s): 1.

**Decision rationale:** As noted on page 1 of the MTUS Chronic Pain Medical Treatment Guidelines, the presence of persistent complains which prove recalcitrant to conservative management should lead a primary treating provider (PTP) reconsider the operating diagnosis and determine whether a specialist evaluation is necessary. In this case, the applicant's longstanding foot complaints should warrant the added attention of a podiatrist. It is further noted that the MTUS-adopted ACOEM Guidelines in Chapter 14, page 371 state that orthotics may reduce global measures of pain and disability for applicants with plantar fasciitis and metatarsalgia. Thus, both ACOEM and the MTUS Chronic Pain Medical Treatment Guidelines support the podiatry consultation as well as the possible provision of orthotics here. Accordingly, the original Utilization Review decision is overturned. The request is certified, on Independent Medical Review

**X-RAY ON NEXT VISIT (BODY PART IS NOT SPECIFIED):** Upheld

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints, Chapter 13 Knee Complaints, Chapter 14 Ankle and Foot Complaints Page(s): 309; 347; 377..

**Decision rationale:** As noted in the MTUS-adopted ACOEM Guidelines in Chapter 14, page 377, the MTUS-adopted ACOEM Guidelines in Chapter 12, page 309 and the MTUS-adopted ACOEM Guidelines in Chapter 13, page 347, routine radiographic films for most knee, ankle, and low back pain complaints are "not recommended." In this case, the attending provider did not clearly state which body part or body parts he intended to perform extra testing upon. No clear rationale for the test in question was provided. While x-ray imaging of the lumbar spine could have been endorsed, to evaluate the integrity of the recent lumbar fusion procedure, routine plain films of an unspecified body part without any specific rationale, however, cannot be endorsed. Therefore, the request is not certified, on Independent Medical Review.

**IN-OFFICE DRUG TESTING:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 43. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Pain Chapter, Urine Drug Testing.

**Decision rationale:** While page 43 of the MTUS Chronic Pain Medical Treatment Guidelines does support intermittent drug testing in the chronic pain population, the MTUS does not establish specific parameters for or identify frequency with which to perform drug testing. As noted in the ODG Chronic Pain Chapter Urine Drug Testing topic, attending provider should clearly state which drug tests and/or drug panels he intends to test for along with the request for testing. The attending provider should also state when the last time an applicant was tested and furnish a list of the applicant's complete medication list along with the request for testing. Finally, the attending should attempt to conform to the best practices of the United States Department of transportation (DOT) as representing the most legally defensive means of performing testing. In this case, it does not appear that the attending provider in fact conformed to DOT parameters. Non-standard drug testing was performed which included confirmatory testing and testing of multiple different benzodiazepine, opioid, and barbiturate metabolites. The attending provider did not attach the applicant's complete medication list to the request for testing, nor did the attending provider state when the last time the applicant was tested. Since several ODG criteria for drug testing have not seemingly been met, the request is not certified, on Independent Medical Review.