

Case Number:	CM13-0038014		
Date Assigned:	12/18/2013	Date of Injury:	03/18/2009
Decision Date:	03/12/2014	UR Denial Date:	09/17/2013
Priority:	Standard	Application Received:	10/24/2013

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 Physical Medicine and Rehabilitation, has a subspecialty in Interventional Spine 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:

This is a 44 year-old female who was injured on 3/18/2009. On 10/22/13 she underwent posterior L5/S1 arthrodesis, Gill procedure L5 bilaterally; pedicle screw placement, with SSEP monitoring. The surgery was with [REDACTED]. Prior to this, on 9/17/13 UR apparently denied the 8/15/13 chiropractic request for an FCE; computerized ROM and muscle testing as a separate procedure; by [REDACTED] I am also asked to review for an orthopedic follow-up, but do not see where that was requested by [REDACTED]. It appears more likely that it was requested by [REDACTED] on his 7/26/13 report. According to the 7/26/13 report, the patient has cervical radiculopathy, lumbar radiculopathy, shoulder impingement, knee sprain, ankle tendonitis, foot fracture.

IMR ISSUES, DECISIONS AND RATIONALES

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

Functional capacity evaluation: Upheld

Claims Administrator guideline: Decision based on MTUS ACOEM. Decision based on Non-MTUS Citation ODG Low Back (updated 05-10-13)

MAXIMUS guideline: The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation ACOEM Chapter 7, Page 137-138.

Decision rationale: MTUS does not discuss functional capacity evaluations. ACOEM chapter 7, was not adopted into MTUS, but would be the next highest-ranked standard according to LC4610.5(2)(B). ACOEM does not appear to support the functional capacity evaluations and states: "Functional capacity evaluations may establish physical abilities, and also facilitate the examinee/employer relationship for return to work. However, FCEs can be deliberately simplified evaluations based on multiple assumptions and subjective factors, which are not always apparent to their requesting physician. There is little scientific evidence confirming that FCEs predict an individual's actual capacity to perform in the workplace; an FCE reflects what an individual can do on a single day, at a particular time, under controlled circumstances, that provide an indication of that individual's abilities. As with any behavior, an individual's performance on an FCE is probably influenced by multiple nonmedical factors other than physical impairments. For these reasons, it is problematic to rely solely upon the FCE results for determination of current work capability and restrictions." The functional capacity evaluation does not appear to be in accordance with ACOEM guidelines.

Computerized Range of Motion (ROM) and muscle testing: Upheld

Claims Administrator guideline: Decision based on MTUS ACOEM. Decision based on Non-MTUS Citation ODG Low Back (updated 05-10-13)

MAXIMUS guideline: The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Lumbar Chapter, Flexibility.

Decision rationale: ROM testing is the normal part of the physical exam for the lower back. California Workers Compensation requires impairment ratings following the AMA Guides for impairment rating. The AMA guides, as well as ODG states "The AMA Guides to the Evaluation of Permanent Impairment, 5th edition, state, "an inclinometer is the preferred device for obtaining accurate, reproducible measurements in a simple, practical and inexpensive way" (p 400)." Computerized ROM or computerized muscle testing is not in accordance with ODG guidelines, nor is it necessary for California w/c impairment ratings.

Orthopedic follow up: Overturned

Claims Administrator guideline: Decision based on MTUS ACOEM. Decision based on Non-MTUS Citation ODG Low Back (updated 05-10-13)

MAXIMUS guideline: The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation ACOEM Chapter 7, Page 137-138.

Decision rationale: The orthopedic surgeon, [REDACTED] apparently requested the follow-up visit from his 7/26/13 report, when he was gathering information for the anticipated L5/S1 surgery. The patient did undergo the lumbar surgery on 10/22/13, and the MTUS definition of surgery is: "Surgery" means a procedure listed in the surgery chapter of the Official Medical Fee Schedule with follow-up days of 90 days. The orthopedic follow-up for the patient that

underwent the surgery appears appropriate and in accordance with ACOEM and MTUS guidelines.