

<b>Case Number:</b>	CM13-0053441		
<b>Date Assigned:</b>	12/30/2013	<b>Date of Injury:</b>	08/03/2010
<b>Decision Date:</b>	03/14/2014	<b>UR Denial Date:</b>	11/05/2013
<b>Priority:</b>	Standard	<b>Application Received:</b>	11/07/2013

### 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:

The patient is a 64-year-old male with date of injury on 08/03/2010. The progress report dated 10/30/2013 by [REDACTED] indicates that the patient's diagnoses include: (1) Lumbar disk displacement without myelopathy, (2) chronic pain NEC, sciatica, disorders sacrum. The patient continues with significant low back pain consistent with lumbar radiculopathy. The treating physician indicates the patient does have L3 lumbar radiculopathy confirmed by electrodiagnostic studies as well as left lumbar radiculopathy based on review of MRI of the lumbar spine. Exam findings include tenderness to palpation in the lower lumbar paraspinal muscles. There is restricted range of motion in the lumbar spine. Straight leg raising test was positive bilaterally. His gait remained wide-based and antalgic favoring the left leg. There is decreased sensation in the bilateral lumbar distributions. A request was made for 6 additional sessions of acupuncture, 6 myofascial therapy sessions, and a 6-month gym membership for access to indoor swimming pool. The utilization review letter dated 11/05/2013 issued non-certification of these requests.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Acupuncture sessions (lumbar) (1x6):** Overturned

**Claims Administrator guideline:** Decision based on MTUS Acupuncture Treatment Guidelines.

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

**Decision rationale:** The patient continues with low back pain with radicular symptoms into the bilateral lower extremities. The treating physician documents that the patient had received good results with prior acupuncture treatment in the past with improved pain and functional ability. It was noted that the last approved sessions of acupuncture were in December of 2012. In the treating physician's appeal letter dated 11/12/2013, he further states that the patient was able to decrease the amount of medication use secondary to acupuncture in the form of reducing the dose of Ibuprofen from 800 mg down to 600 mg. He utilizes this a couple of times a week. The patient was also to decrease his dosage of Lyrica from 300 down to 150 mg a day. Acupuncture Medical Treatment Guidelines state that acupuncture treatments may be extended if functional improvement is documented as defined in Section 9792.20. The time to produce functional improvement is 3 to 6 treatments. The request for 6 additional sessions of acupuncture appeared to be reasonable and supported by the guidelines noted above. Therefore, authorization is recommended.

**Myofascial therapy sessions (lumbar) (2x3):**

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 60.

**Decision rationale:** The patient continues with low back pain and radicular symptoms into the bilateral lower extremities. The treating physician mentions that the patient has benefit in the past with massage therapy. MTUS page 60 regarding massage therapy states that this treatment should be an adjunct to other recommended treatment (e.g., exercise), and it should be limited to 4 to 6 visits in most cases. MTUS further states that massage is a passive intervention and treatment dependence should be avoided. The treatment guidelines do not appear to support the request for additional massage therapy. Therefore, recommendation is for denial.

**6 month gym membership with pool access:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) ODG-TWC Guidelines, Lower Back Chapter, Online, for Gym Membership

**Decision rationale:** The patient continues with low back pain and bilateral lower extremity pain. The treating physician mentions that the patient continues with self-directed pool therapy. The treating physician mentions that the patient tries the best he can to do land-based home exercises, but these frequently exacerbate his lower back pain. MTUS Guidelines do not specifically

address gym memberships, therefore ODG Guidelines were reviewed. The updated version of ODG from 02/13/2014 regarding gym memberships states that while individual exercise program is of course recommended, more elaborate personal care where outcomes are not monitored by a health professional, such as gym memberships or advanced home exercise equipment may not be covered under this guideline. MTUS further states that gym memberships, health clubs, swimming pools, and athletic clubs, etcetera, would not generally be considered medical treatment, and are therefore not covered under these guidelines. MTUS does appear to have an exception if a home exercise program has not been effective and there is a need for equipment. However, it does state that treatment needs to be monitored and administered by medical professionals. The treating physician does appear to indicate the patient does well with pool therapy and struggles with at-home exercise program with land-based exercises. However, the treating physician does not provide discussion regarding how the patient's pool therapy would be monitored and administered by medical professionals. Therefore, recommendation is for denial.