

Case Number:	CM13-0067576		
Date Assigned:	01/03/2014	Date of Injury:	12/24/2012
Decision Date:	04/30/2014	UR Denial Date:	12/12/2013
Priority:	Standard	Application Received:	12/17/2013

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 applicant is represented [REDACTED] employee who has filed a claim for posttraumatic headaches, post concussion syndrome, and chronic neck and low back pain reportedly associated with an industrial injury of December 24, 2012. Thus far, the applicant has been treated with the following: Analgesic medications; attorney representation; unspecified amounts of physical therapy over the life of the claim; psychotropic medications; and extensive periods of time off of work, on total temporary disability. In a utilization review report of December 16, 2013, the claims administrator denied a request for eight sessions of acupuncture and denied a 24 months fitness membership. It was stated that the applicant has had 14 physical therapy sessions and 6 sessions of chiropractic manipulative therapy. The claims administrator cited the outdated 2007 California Acupuncture Guidelines and non-MTUS ODG Guidelines. The claims administrator denied the request for eight sessions of acupuncture despite the fact that the applicant has had no prior acupuncture, stating that acupuncture would not offer the applicant any definitive pain relief. The applicant's attorney subsequently appealed. On November 14, 2103, medical-legal evaluator suggested that the applicant's primary treating provider offer the applicant a trial of acupuncture. On December 11, 2013, the applicant's secondary treating provider suggested that the applicant employ Cymbalta on a trial basis in conjunction with Norco, for the ultimate purpose of diminishing the applicant's need for Norco. A December 5, 2013 progress note is notable for the comments that the applicant is off of work, on total temporary disability, with ongoing complaints of low back pain and headaches, ranging from 4 to 6/10. The applicant was slightly overweight. Limited lumbar range of motion was noted. A gym membership and eight-session course of acupuncture were sought while the applicant was placed off of work, on total temporary disability.

IMR ISSUES, DECISIONS AND RATIONALES

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

SIX (6) MONTH MEMBERSHIP AT 24 HOUR FITNESS FOR AQUATIC THERAPY: Upheld

Claims Administrator guideline: The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation OFFICIAL DISABILITY GUIDELINES (ODG), GYM MEMBERSHIPS

MAXIMUS guideline: Decision based on MTUS ACOEM Chapter 5 Cornerstones of Disability Prevention and Management Page(s): 83, Chronic Pain Treatment Guidelines AQUATIC THERAPY Page(s): 22.

Decision rationale: As noted in the MTUS Guideline in ACOEM Chapter 5, page 83, applicants must "assume certain responsibilities," one of which is to "adhere to exercise and medication regimens." Thus, the gym membership for aquatic therapy proposed here is considered, per ACOEM, to be a matter of applicant's responsibility as opposed to a matter of medical necessity. It is further noted that page 22 of the MTUS Chronic Pain Medical Treatment Guidelines states that aquatic therapy should be considered an optional form of exercise therapy, to be employed in those applicants who have some contraindication of participating in land-based therapy and/or land-based home exercise. In this case, however, the applicant was described on the progress note of December 5, 2013, as ambulating with a normal gait, with normal heel and toe progression and heel and toe ambulation. The applicant also had normal coordination, it was further noted. Thus, the applicant does not appear to have any gait derangement or gait deficits, which would warrant the aquatic component of the request. For all the stated reasons, then, the request is not certified, on independent medical review.

ACUPUNCTURE TWO (2) TIMES A WEEK FOR FOUR (4) WEEKS FOR THE LUMBAR SPINE: Overturned

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

MAXIMUS guideline: Decision based on MTUS Acupuncture Treatment Guidelines.

Decision rationale: The request in question represents first-time request for acupuncture. The applicant has not had any prior acupuncture treatment to date. While this does represent initiation of acupuncture treatment in excess of the "three to six treatments" deemed necessary to produce functional improvement following introduction of acupuncture suggested in MTUS 9792.24.1.c1, partial certifications are not permissible through the independent medical review process. Providing some acupuncture, on a trial basis, is therefore preferable providing no acupuncture, although the primary treating provider's request is seemingly in excess of MTUS parameters. Accordingly, the original utilization review decision is overturned. Contrary to what was suggested by the claims administrator, however, MTUS 9792.24.1.a1 states that acupuncture can be employed for a variety of purposes, to reduce pain medication consumption, as an adjunct to

physical rehabilitation, for chronic pain purposes, etc. Therefore, the request is certified, on independent medical review.