

<b>Case Number:</b>	CM14-0129949		
<b>Date Assigned:</b>	08/20/2014	<b>Date of Injury:</b>	09/07/2005
<b>Decision Date:</b>	12/24/2014	<b>UR Denial Date:</b>	07/14/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	08/14/2014

### 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 Physical Medicine and Rehabilitation, has a subspecialty in Pain 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:

According to the records made available for review, the injured worker is a 70 year-old female with a date of injury of 09/07/2005. Diagnoses include low back pain and lumbar radiculopathy. Treatments have included medications, chiropractic therapy, physical therapy, and surgical intervention. Medications prescribed for the injured worker include Diclofenac, LidoPro topical ointment, and Prilosec. A progress noted dated 06/26/2014 records the chiropractic treatments to have caused increased the pain and were discontinued, while the PT sessions were noted to have been helpful. Surgical interventions have consisted of two right knee surgeries, one left knee surgery, and five right hand surgeries. Diagnostic testing on 05/14/2014 included an x-ray of the lumbar spine which showed L5-S1 disk space narrowing as well as spondylosis. An EMG/NCS performed on 06/10/2014 revealed evidence of left L5 radiculopathy. On 06/19/2014, the treating physician documented that the injured worker reported constant aching low back pain, left side greater than the right, as well as numbness, tingling, weakness, and pain radiating down the bilateral legs. Physical exam on this date documents tenderness to the bilateral paraspinals and at the midline of L4-5. Neurologic evaluation was remarkable for decreased sensory function at the L3, L4, L5, and S1 regions. Subjectively, the injured worker reports pain at the mid back and low back at 7/10 on the pain scale. The work status at the time of this progress report is listed as presumed permanent and stationary. Request is being made for LidoPro Topical Ointment 4 oz., Acupuncture 2x4, and Plain Magnetic Resonance Imaging (MRI) of the Lumbar Spine. On 07/14/2014, Utilization Review non-certified requests for LidoPro Topical Ointment 4 oz. and Plain Magnetic Resonance Imaging (MRI) of the Lumbar Spine, as well as modifying a request for Acupuncture 2x4. Utilization Review non-certified the request for LidoPro Topical Ointment 4 oz. based on the CA MTUS Chronic Pain Medical Treatment Guidelines pertaining to topical analgesics. Utilization Review non-certified the request for Plain Magnetic Resonance Imaging

(MRI) of the Lumbar Spine based on ACOEM and ODG-TWC guidelines for MRI. Utilization Review modified the request for Acupuncture 2x4 based on the CA MTUS Acupuncture Medical Treatment Guidelines.

### **IMR ISSUES, DECISIONS AND RATIONALES**

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

#### **LidoPro Topical Ointment 40oz: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 111-113 of 127.

**Decision rationale:** Regarding request for LidoPro, LidoPro contains Capsaicin 0.0325%, Lidocaine 4.5%, Menthol 10%, and Methyl Salicylate 27.5%. Chronic Pain Medical Treatment Guidelines state that any compounded product that contains at least one drug or drug class that is not recommended, is not recommended. Regarding use of capsaicin, guidelines state that it is recommended only as an option for patients who did not respond to or are intolerant to other treatments. Regarding the use of topical lidocaine, Chronic Pain Medical Treatment Guidelines recommend the use of topical lidocaine for localized peripheral pain after there has been evidence of a trial of the 1st line therapy such as tri-cyclic antidepressants, SNRIs, or antiepileptic drugs. Guidelines go on to state that no commercially approved topical formulations of lidocaine cream, lotion, or gel are indicated for neuropathic pain. The patient has reports constant aching of lower back with numbness, tingling, and tightness and using Lidopro to reduce the use of oral pain medication. Within the documentation available for review, there is no mention that the patient has tried and failed first-line therapy recommendations of anti-convulsant and anti-depressant medication. Furthermore, guidelines do not support the use of topical lidocaine preparations which are not in patch form. In addition, there is no indication that the patient has been intolerant to or did not respond to other treatments prior to the initiation of capsaicin therapy. Therefore, the currently requested LidoPro is not medically necessary.

#### **Plain MRI of the lumbar spine: Overturned**

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 303. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG), Low back procedure summary

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 303-304.

**Decision rationale:** A progress note dating on 6/19/2014 documented electromyogram finding consistent with L5 radiculopathy. Regarding the request for lumbar MRI, ACOEM Practice Guidelines state that unequivocal objective findings that identify specific nerve compromise on the neurologic examination are sufficient evidence to warrant imaging in patients who do not

respond to treatment and would consider surgery an option. ODG states that MRIs are recommended for uncomplicated low back pain with radiculopathy after at least one month of conservative therapy. The patient has had acupuncture treatment, chiropractic treatments, and taking oral medication without significant improvement. At this time, an MRI of the lumbar spine is reasonable and could help determine the cause of L5 radiculopathy. Therefore, this request is medically necessary.

**Acupuncture 2 x 4 visits:** Upheld

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

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

**Decision rationale:** Section 9792.24.1 of the California Code of Regulations, Title 8, page 8 under the Special Topics section, specifies the following regarding acupuncture:"(1) "Acupuncture" is used as an option when pain medication is reduced or not tolerated, it may be used as an adjunct to physical rehabilitation and/or surgical intervention to hasten functional recovery. It is the insertion and removal of filiform needles to stimulate acupoints (acupuncture points). Needles may be inserted, manipulated, and retained for a period of time. Acupuncture can be used to reduce pain, reduce inflammation, increase blood flow, increase range of motion, decrease the side effect of medication-induced nausea, promote relaxation in an anxious patient, and reduce muscle spasm.(2) "Acupuncture with electrical stimulation" is the use of electrical current (micro- amperage or milli-amperage) on the needles at the acupuncture site. It is used to increase effectiveness of the needles by continuous stimulation of the acupoint. Physiological effects (depending on location and settings) can include endorphin release for pain relief, reduction of inflammation, increased blood circulation, analgesia through interruption of pain stimulus, and muscle relaxation. It is indicated to treat chronic pain conditions, radiating pain along a nerve pathway, muscle spasm, inflammation, scar tissue pain, and pain located in multiple sites.(3) "Chronic pain for purposes of acupuncture" means chronic pain as defined in section 9792.20(c). (b) Application(1) These guidelines apply to acupuncture or acupuncture with electrical stimulation when referenced in the clinical topic medical treatment guidelines in the series of sections commencing with 9792.23.1 et seq., or in the chronic pain medical treatment guidelines contained in section 9792.24.2. (c) Frequency and duration of acupuncture or acupuncture with electrical stimulation may be performed as follows:(1) Time to produce functional improvement: 3 to 6 treatments.(2) Frequency: 1 to 3 times per week.(3) Optimum duration: 1 to 2 months.(d) Acupuncture treatments may be extended if functional improvement is documented as defined in Section 9792.20(f). (e) It is beyond the scope of the Acupuncture Medical Treatment Guidelines to state the precautions, limitations, contraindications or adverse events resulting from acupuncture or acupuncture with electrical stimulations. These decisions are left up to the acupuncturist."A progress note dating on 6/26/2014 showed patient has already had 2 acupuncture treatments. The patient has had improvement with initial acupuncture session. Within the provided documentation, there's no evidence that the patient has tried physical therapy to date, but she did have chiropractic sessions which worsened her lower back pain. Regarding the request for acupuncture, California MTUS does support the use of acupuncture for chronic pain. Acupuncture is recommended to be used as an adjunct to physical

rehabilitation and/or surgical intervention to hasten functional recovery. A trial of up to 6 sessions is recommended, with up to 24 total sessions supported when there is ongoing evidence of functional improvement. The current request for 8 visits exceeds the 6 visit trial recommended by guidelines. Since the independent medical review process cannot modify any requests, the currently requested acupuncture is not medically necessary.