

<b>Case Number:</b>	CM14-0153611		
<b>Date Assigned:</b>	09/23/2014	<b>Date of Injury:</b>	03/06/2013
<b>Decision Date:</b>	10/29/2014	<b>UR Denial Date:</b>	09/05/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	09/19/2014

### 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 and is licensed to practice in Georgia. 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 patient is a 55-year-old female who sustained a work related injury on 03/06/2013 when she tripped over a line when she fell forward onto her knees and flat onto her stomach. This reportedly resulted in injuries affecting her legs, knees, back, and "nervous system." Prior treatment history has included at least 20 sessions of acupuncture, at least 12 extracorporeal shockwave treatments for her lumbar pain and at least ESWT for her medial meniscus, and therapeutic injections. Diagnostic studies reviewed include FCE dated 05/21/2014 revealed right knee WPI at 0%; left knee WPI at 4% and lumbar spine WPI at 5% with a total score of 9% WPI. QME dated 08/20/2014 noted the patient had previously undergone acupuncture treatment previously with "slight relief" as originally noted on 05/21/2014 QME. The examiner noted the patient might benefit from additional acupuncture, PT, and/or chiropractic treatments not to exceed 12 additional visits from the date of the prior exam (05/21/2014). According to the UR, the patient was seen on 08/27/2014 with complaints of mild to moderate bilateral knee pain and low back pain. Her exam revealed pain on range of motion of bilateral knees and tenderness to palpation of the lumbar paravertebral muscles. She had tenderness of the right knee over the anterior knee and posterior knee. McMurray has caused pain to the bilateral knees. The patient had a diagnosis of left knee medial meniscus tear, right knee internal derangement, lumbar myofasciitis, and right knee medial meniscus tear. She was a recommendation was made for capsaicin patch and electro acupuncture for the lumbar spine. Prior utilization review dated 09/05/2014 stated the request for Infrared electro acupuncture for the lumbar spine and bilateral knees, 2 times a week for 4 weeks was denied as medical necessity had not been established; Capsaicin patch for the bilateral knees and functional capacity evaluation were denied as medical necessity had not been established.

## IMR ISSUES, DECISIONS AND RATIONALES

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

**Infrared Electro Acupuncture, for The Lumbar Spine and Bilateral Knees, 2 times a week for 4 weeks:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Acupuncture 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) Low Back, Acupuncture Chapter 4.5. Division of Workers' Compensation. Administrative Director--Administrative Rules, Medical Treatment Utilization Schedule. Acupuncture Medical Treatment Guidelines. [https://www.dir.ca.gov/t8/9792\\_24\\_1.html](https://www.dir.ca.gov/t8/9792_24_1.html)

**Decision rationale:** The California Medical Treatment Utilization Schedule (MTUS) recommends acupuncture as an option for chronic low back pain using a short course of treatment in conjunction with other interventions. Acupuncture has been found to be more effective than no treatment for short-term relief in chronic low back pain. Evidence for the benefit of acupuncture is conflicting with higher quality studies showing no benefit. As with other passive interventions, it should be an adjunct to active rehab efforts. ODG recommends a trial of 3-4 visits of acupuncture over a 2-week period. If evidence of objective functional improvement is provided, a total of up to 8-12 visits over a 4-6 week period should be considered. The Department of Worker's Compensation California Code of Regulations, Title 8, subsection 9792.24.1 notes that 3-6 treatments should be appropriate to determine if any functional improvement is likely to be gained, over a course of 1-3 weeks, and may be continued if functional improvement is documented. The medical records provided do not present documented evidence of objective improvement in function following acupuncture treatments. Progress notes detailing the frequency and duration of treatments provided are not available for review. Based on the ODG and California DWC guidelines and criteria as well as the lack of clinical documentation to support acupuncture treatments requested, the request is not medically necessary.

**Capsaicin Patch for The Bilateral Knees:** Upheld

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

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Capsaicin (Topical) Page(s): 28-29.

**Decision rationale:** The California Medical Treatment Utilization Guidelines (MTUS) recommends capsaicin only as an option in patients who have not responded to or are intolerant to other treatments. Approved formulations include 0.025% formulation for treatment of osteoarthritis and 0.075% formulation for treatment of post-herpetic neuralgia, diabetic neuropathy, and post-mastectomy pain. There are positive randomized controlled trials with

capsaicin cream in patients with OA, fibromyalgia, and chronic non-specific back pain. Capsaicin should be considered experimental in very high doses. The provided medical records fail to provide adequate documentation of trial and failure of conventional therapies. Based on the MTUS guidelines and criteria as well as the clinical documentation stated above, the request is not medically necessary.

**Functional Capacity Evaluation:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation American College of Occupational and Environmental Medicine (ACOEM) Practice Guidelines, Chapter 7 Independent Medical Evaluations and Consultations, page 137 (FCE)

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Fitness for Duty, Functional Capacity Evaluation, American College of Occupational and Environmental Medicine (ACOEM), Chapter 7, page(s) 137

**Decision rationale:** The ACOEM notes that Functional Capacity Evaluations (FCEs), while widely and promoted, have little scientific evidence supporting their ability to predict actual ability to perform in the workplace. Additionally, it reflects what an individual can do in a single day, at a particular time, under controlled circumstances, and is therefore problematic to rely solely upon for determination of current work capability and restrictions. Per the Official Disability Guidelines (ODG), FCE should be considered case management has been hampered by issues such as prior unsuccessful return to work, conflicting medical reporting on precautions and/or fitness for modified job, or injuries that require detailed exploration of a worker's abilities. Additionally, it is recommended that FCE be performed when the patient has neared MMI. The provided medical records do not document what the purpose of the requested FCE is, nor do they document what the patient's current reported functional level is, nor do they document if the patient is actually considering return to work and in what capacity. Based on the ACOEM and ODG guidelines and criteria as well as the clinical documentation stated above, the request is not medically necessary.