

Case Number:	CM14-0158382		
Date Assigned:	10/01/2014	Date of Injury:	11/03/2000
Decision Date:	12/26/2014	UR Denial Date:	08/29/2014
Priority:	Standard	Application Received:	09/26/2014

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 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 a represented [REDACTED] employee who has filed a claim for chronic low back pain reportedly associated with an industrial injury of November 3, 2000. Thus far, the applicant has been treated with the following: Analgesic medications; long- and short-acting opioids; earlier lumbar spine surgery; subsequent spinal cord stimulator implantation; and unspecified amounts of physical therapy over the course of the claim. In a Utilization Review Report dated August 29, 2014, the claims administrator approved a request for morphine, Neurontin, and Cymbalta while denying a "swimming exercise program" and/or repeat lumbar radiofrequency ablation procedure. The claims administrator's report was 20 pages long and very difficult to follow. The applicant's attorney subsequently appealed. In a May 20, 2014 progress note, the applicant reported ongoing complaints of low back pain. Authorization was sought for right-sided multilevel lumbar radiofrequency ablation procedure. The applicant was on morphine, Cymbalta, and Neurontin, it was acknowledged. 6/10 pain was appreciated. It was stated that the applicant had undergone a two-level disc replacement surgery and a spinal cord stimulator trial, which was reportedly ineffectual. The applicant did report some radiation of pain including cramping about the right thigh and right leg. The applicant reported derivative complaints of sleep disturbance and depression, it was acknowledged. The applicant's medications included Cymbalta, Morphine, Neurontin, aspirin, Tenormin, Lipitor, Doxazosin, and MiraLax, it was stated. The applicant was obese, standing 5 feet 10 inches tall, and weighing 252 pounds. Multiple medications were renewed. Radiofrequency ablation procedure and/or "swimming program" were sought. The applicant was described as neurologically intact. The applicant's gait was reportedly within normal limits. The applicant was described as "permanently disabled."

IMR ISSUES, DECISIONS AND RATIONALES

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

Swimming Exercise Program Only: Upheld

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

MAXIMUS guideline: Decision based on MTUS ACOEM Chapter 3 Initial Approaches to Treatment, Chapter 5 Cornerstones of Disability Prevention and Management Page(s): 48, 83, Chronic Pain Treatment Guidelines Exercise topic. Aquatic Therapy Page(s): 22, 46-47.

Decision rationale: As noted in the MTUS-adopted ACOEM Guidelines in Chapter 5, page 83, to achieve functional recovery, applicants must assume certain responsibilities, one of which includes adhering to and maintaining exercise regimens. The swimming program at issue, thus, per ACOEM, is an article of applicant responsibility as opposed to an article of payor responsibility. Pages 46 and 47 of the MTUS Chronic Pain Medical Treatment Guidelines, furthermore, do not advocate any one particular form of exercise over another. It is not clear why swimming therapy or aquatic therapy was being sought here. Page 22 of the MTUS Chronic Pain Medical Treatment Guidelines, moreover, notes that aquatic therapy should be reserved as an optional form of exercise therapy in applicants in whom reduced weight bearing is desirable, in this case, however, the applicant was described on the most recent office visit of May 20, 2014 as exhibiting a normal gait with normal lower extremity neurologic function, effectively arguing against the need for aquatic therapy/swimming-based therapy here. Finally, the MTUS Guideline in ACOEM Chapter 3, page 48 notes that it is incumbent upon a requesting provider to furnish a prescription for therapy which "clearly states treatment goals." Here, the request for therapy is open-ended, does not clearly state treatment goals and does not clearly state treatment duration. Therefore, the request is not medically necessary.

Repeat Radio frequency Ablation Right Side L3,4,5 for Lumbar DDD L4-5 and L5-S1: Upheld

Claims Administrator guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 300-301.

MAXIMUS guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 309.

Decision rationale: As noted in the MTUS-adopted ACOEM Guidelines in Chapter 12, Table 12-8, page 309, facet joint injections, of with the proposed radiofrequency ablation procedures at issue are a subset, are deemed "not recommended." Here, the applicant has already received prior lumbar radiofrequency ablation procedures, despite the unfavorable ACOEM position on the same. The applicant has; however, failed to demonstrate any lasting benefit or functional improvement to the same. The applicant remains off of work, on total temporary disability. The applicant remains dependent on various and sundry analgesic and adjuvant medications, including morphine, Cymbalta, Neurontin, etc. All of the foregoing, taken together, suggests a

lack of functional improvement as defined in MTUS 9792.20f, despite at least one prior set of lumbar radiofrequency ablation procedures. Therefore, the request is not medically necessary.