

<b>Case Number:</b>	CM14-0024909		
<b>Date Assigned:</b>	09/30/2014	<b>Date of Injury:</b>	08/16/2013
<b>Decision Date:</b>	12/30/2014	<b>UR Denial Date:</b>	01/24/2014
<b>Priority:</b>	Standard	<b>Application Received:</b>	02/27/2014

### 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 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 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 28 year old male with an injury date of 08/16/13. Based on the 12/27/13 progress report provided by treating physician, the patient complains of neck and lower back pain along with radiculopathy in the upper and lower extremities mainly on the right side with numbness, tingling, and weakness. Physical examination revealed spasm, tenderness, and guarding in the paravertebral muscles of the cervical and lumbar spines, along with decreased range of motion. Decreased dermatomal sensation with pain noted over the bilateral C6 and L5 dermatomes. Per progress report dated 12/27/13, treater states, "Authorization is requested for functional capacity evaluation in order to assess the patient's physical abilities to work and provide him with permanent work restrictions to return him back to the work environment in an expedited fashion without further aggravation of his industrial injuries." Acupuncture is requested "in order to avoid further aggravation of patient's industrial injuries upon returning to work."Diagnosis 12/27/13- thoracic sprain/strain- cervical radiculopathy- intervertebral disc disorder- lumbar sprain/strain- lumbosacral radiculopathyThe utilization review determination being challenged is dated 01/24/14. Treatment reports were provided from 08/19/13 - 12/27/13.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Functional capacity evaluation, trunk lower extremities and upper extremities:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation ACOEM, Chapter 7 Independent Medical Examinations and Consultations.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation American College of Occupational and Environmental Medicine (ACOEM), 2nd Edition, (2004) chapter 7, and page 137-139, Functional Capacity Evaluation (FCE).

**Decision rationale:** MTUS does not discuss functional capacity evaluations. ACOEM chapter 7, page 137-139 states that the "examiner is responsible for determining whether the impairment results in functional limitations... The employer or claim administrator may request functional ability evaluations... may be ordered by the treating or evaluating physician, if the physician feels the information from such testing is crucial." ACOEM further states, "There is little scientific evidence confirming that FCE's predict an individual's actual capacity to perform in the workplace." Per progress report dated 12/27/13, provider states, "Authorization is requested for functional capacity evaluation in order to assess the patient's physical abilities to work and provide him with permanent work restrictions to return him back to the work environment in an expedited fashion without further aggravation of his industrial injuries." Per ACOEM, there is lack of evidence that FCE's predict a patient's actual capacity. The provider's evaluation and estimation is adequate. Functional capacity evaluation, trunk lower extremities and upper extremities is not medically necessary and appropriate.

**Acupuncture 2x3 lumbar trunk lower extremities and upper extremities:** Overturned

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

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

**Decision rationale:** The patient presents with neck and lower back pain along with radiculopathy in the upper and lower extremities mainly on the right side with numbness, tingling, and weakness. The request is for acupuncture 2 x 3 lumbar trunk lower extremities and upper extremities. Patient's diagnosis dated 12/27/13 included thoracic and lumbar sprain/strain, cervical and lumbosacral radiculopathy, and intervertebral disc disorder. The patient presents with neck and lower back pain along with radiculopathy in the upper and lower extremities mainly on the right side with numbness, tingling, and weakness. The request is for acupuncture 2 x 3 lumbar trunk lower extremities and upper extremities. Patient's diagnosis dated 12/27/13 included thoracic and lumbar sprain/strain, cervical and lumbosacral radiculopathy, and intervertebral disc disorder. Acupuncture Medical Treatment Guidelines. MTUS pg. 13 states: "(i) Time to produce functional improvement: 3 to 6 treatments (ii) Frequency: 1 to 3 times per week (iii) Optimum duration: 1 to 2 months. (D) Acupuncture treatments may be extended if functional improvement is documented as defined in Section 9792.20(e)." Per progress report dated 12/27/13, acupuncture is requested "in order to avoid further aggravation of patient's industrial injuries upon returning to work." When reading MTUS for acupuncture, prior response to therapy is not pre-requisite to a trial of acupuncture. MTUS allows for a trial of

acupuncture up to 6 sessions and more if functional improvement is demonstrated. Review of medical records do not show that patient tried acupuncture in the past. Acupuncture 2x3 lumbar trunk lower extremities and upper extremities is medically necessary and appropriate.