MAXIMUS Federal Services

| Case Number: | CM14-0040032 | | |
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| Date Assigned: | 06/25/2014 | Date of Injury: | 07/10/1995 |
| Decision Date: | 12/23/2014 | UR Denial Date: | 03/25/2014 |
| Priority: | Standard | Application Received: | 04/04/2014 |

## 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 55 year old male with an injury date of 07/10/95. Per the physician's progress report dated 03/13/14, the patient complains of constant lower back pain rated at 8/10. He also reports abnormal gait, back pain, muscle spasms, numbness, tingling and weakness. The pain is radiating from the back to the left leg. He had to visit the ER for a shot of Dilaudid to manage the pain. A physical examination of the paravertebral muscles showed tenderness and spasms bilaterally. Spinous process tenderness is noted on L4, L5 and S1. Straight leg raise was positive on the left side. There was decreased sensation along the left L5 dermatone and L4. The Patellar jerk was 2/4 on the right and 1/4 on the left. As per progress report dated 11/07/13, the patient was having locking up of 'VMO and adductor." Physical examination revealed tenderness in the paravertebral muscles and left psoas along with spinous process tenderness at L5 and S1. A list of medications, as per report dated 03/13/14, included Gabapentin, Percocet, Cyclobenzaprine, and Lunesta. The patient is doing yoga and stretching as part of home exercise program. In progress report 11/07/13, he stated that medications helped reduce pain and improve his ability to perform activities of daily living at home. Patient completed a course of physical therapy. The patient received L5-S1 lumbar epidural steroid injection and trigger point injection to the left psoas, as per the same progress report. EMG/NCV, 09/03/10, as per Utilization Review Denial Letter:- Findings limited and nonspecific for Lumbar Radiculopathy- Prolongation of CMAP latency of the left peroneal nerve - Denervation potentials on EMG at right gastrocnemius MRI of the Lumbar Spine, 08/05/13- L3-L4 - Facet degenerative change and bilateral facet joint effusions; mild bilateral foraminal narrowing.- L4-L5 - Slight degenerative anterolisthesis; left greater than right facet degenerative change; small right facet effusion; mild central canal stenosis; moderate bilateral foraminal narrowing- L5-S1 - Central, left posterolateral endplate

ridge with moderate-severe left foraminal narrowing; facet degenerative changesDiagnosis, 03/13/14- Lumbar or lumbosacral Disc Degeneration- Lumbago- Neuralgia. Neuritis and Radiculitis, Not Otherwise Specified. The physician is requesting for (a) EMG bilateral lower extremities (b) DME: Cane (c) Referral To Orthopedic Surgeon. The utilization review determination being challenged is dated 03/25/14. The rationale follows:(a) EMG Bilateral Lower Extremities - There are new neurological findings on the left extremity including reduced patellar jerk on the left and reduced sensation along L4 and L5 dermatomes. "However, the right leg has no objective neurologic changes and EMG is not supported by MTUS guidelines in that extremity."(b) DME: Cane - "The report does not state why this is being requested."(c) Referral To Orthopedic Surgeon - "There is currently no red flag."Treatment report was provided from 08/05/13 - 04/03/14.

## IMR ISSUES, DECISIONS AND RATIONALES

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

**EMG bilateral lower extremities:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG)-Regarding Electrodiagnostic Testing

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 11 Forearm, Wrist, and Hand Complaints, Chapter 12 Low Back Complaints Page(s): 260-262 303.

**Decision rationale:** The ACOEM Guidelines page 303 states "Electromyography, including H-reflex tests, may be useful to identify subtle, focal neurologic dysfunction in patients with low back symptoms lasting more than 3 or 4 weeks." The ODG guidelines in the foot/ankle chapter do not discuss electrodiagnostics. ACOEM Practice Guidelines, 2nd Edition (2004), Chapter 11, page 260-262 states: "Appropriate electrodiagnostic studies (EDS) may help differentiate between CTS and other conditions, such as cervical radiculopathy. These may include nerve conduction studies (NCS), or in more difficult cases, electromyography (EMG) may be helpful. NCS and EMG may confirm the diagnosis of CTS but may be normal in early or mild cases of CTS. If the EDS are negative, tests may be repeated later in the course of treatment if symptoms persist."In this case, patient did receive EMG/NCV for the left lower extremity in the past, as per the Utilization Review Denial Letter. The previous report, unfortunately, was not included in the file for this review. The Utilization Review Denial Letter states that the "findings were limited and nonspecific for lumbar radiculopathy." Progress report dated 03/13/14 reveals that Straight Leg Raise is positive on the left side. There is decreased sensation along the left L5 dermatone and L4, and the Patellar jerk is 2/4 on the right and 1/4 on the left. These findings were absent in the previous report dated 02/26/14. The physician states that "I believe that he has nerve root impingement or radiculopathy." While these changes may warrant an EMG on the left side, the physician does not discuss not why another one is required on the right side. The request is not medically necessary.

**DME: Cane:** 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) - Walking Aids

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Durable medical equipment (DME), Knee & Leg (Acute & Chronic) Chapter

**Decision rationale:** The ODG guidelines, Chapter Knee & Leg and Title DME, states that "The term DME is defined as equipment which: (1) Can withstand repeated use, i.e., could normally be rented, and used by successive patients; (2) Is primarily and customarily used to serve a medical purpose; (3) Generally is not useful to a person in the absence of illness or injury; & (4) Is appropriate for use in a patient's home. (CMS, 2005)" DME is "Recommended generally if there is a medical need and if the device or system meets Medicare's definition of durable medical equipment (DME) below."In this case, the patient complains of abnormal gait and weakness, as per progress report dated 03/13/14. He states that the "left leg appears to be longer than the right." However, physical examination reveals normal heel and toe walk. The physician states that the "patient ambulates normal gait and without a device." The physician does not explain the need for a cane. The request is not medically necessary.

**Referral to Orthopedic Surgeon:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**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, page 127, Referral to Orthopedic Surgeon

**Decision rationale:** The ACOEM guidelines (Chapter 7, page 127) states that the occupational health practitioner may refer to other specialists if a diagnosis is uncertain, or is extremely complex, when psychosocial factors are present, or when the plan or course of care may benefit from additional expertise. A referral may be for consultation to aid in the diagnosis, prognosis, therapeutic management, determination of medical stability, and permanent residual loss and/or the examinee's fitness for return to work. In the progress report dated 11/07/13, the physician says that "At this time he has undergone conservative measure and I recommend a orthopedic consultation." In this case, the patient has been working with the physician for lower back pain radiating to lower extremities since at least 10/10/13. The patient's pain level remains high at 8/10. It is clear that he is not benefiting from conservative therapy, and may benefit from consultation with a specialist. The request is medically necessary.