

Case Number:	CM15-0000805		
Date Assigned:	01/12/2015	Date of Injury:	01/03/2010
Decision Date:	03/13/2015	UR Denial Date:	12/22/2014
Priority:	Standard	Application Received:	01/05/2015

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. 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/Service. He/she is familiar with governing laws and regulations, including the strength of evidence hierarchy that applies to Independent Medical Review determinations.

The Expert Reviewer has the following credentials:

State(s) of Licensure: Colorado

Certification(s)/Specialty: Family Practice

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 injured worker is a 59 year old female, who sustained an industrial injury on January 3, 2010. She has reported back pain that radiates to left leg. The diagnoses have included lumbosacral spondylosis, lumbar disc degeneration, and lumbago. Treatment and evaluation to date have included medications, toxicology screening, patient education, and radiological imaging. Currently, the Injured Worker complains of burning on the top of both feet, and associated numbness. On December 1, 2014, she reported being unable to feel the bottom of three of her toes on the right side, and activities of daily living aggravated symptoms. Physical findings on this date were noted to be tenderness of the lumbosacral axial spine with range of motion as extension 10 degrees, left lateral flexion 20 degrees, right later flexion 20 degrees, left rotation 20 degrees, and right rotation 20 degrees, and decreased sensation in the plantar aspect of the right foot. Current medications are listed as: Carvedilol, Fioricet, Gabapentin, Thyroid replacement, and Tylenol number 4. On December 22, 2014, Utilization Review non-certified the request of one (1) updated AME with [REDACTED], based on alternative non-MTUS guidelines. On December 25, 2014, the injured worker submitted an application for IMR for review of one (1) updated Agreed Medical Evaluator with [REDACTED]. The listed primary diagnosis is lumbosacral spondylosis.

IMR ISSUES, DECISIONS AND RATIONALES

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

1 updated AME evaluation: Upheld

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 California Labor Code

Decision rationale: The MTUS Guidelines and the ACOEM Guidelines do not address the issue of agreed medical examination as it is not a treatment. Per the California Labor Code, the agreed medical examination (AME) is a medical evaluation performed by a provider that is agreed upon by the patient / patient's attorney and the employer / employer's attorney to prepare a medicolegal report regarding a disputed injury claim. The AME can be requested by the patient, or his/her attorney, or by the employer or their attorneys. The Labor Code indicates that the AME is not to be used to appeal a denial or modification from utilization review or independent medical review, as that function is addressed in a later section of the Code. If a request for medical treatment/evaluation is denied or modified by utilization review, then independent medical review can be requested by the patient/patient's attorney and/or by the employer / employer attorney. Once the independent medical review decision is made, "The determination of the independent medical review organization shall be deemed to be the determination of the administrative director and shall be binding on all parties." Such a determination can only be set aside through a formal appeals process that proves "by clear and convincing evidence" one or more grounds for the appeal / reversal: (1) The administrative director acted without or in excess of the administrative director's powers. (2) The determination of the administrative director was procured by fraud. (3) The independent medical reviewer was subject to a material conflict of interest that is in violation of Section 139.5. (4) The determination was the result of bias on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. (5) The determination was the result of a plainly erroneous express or implied finding of fact, provided that the mistake of fact is a matter of ordinary knowledge based on the information submitted for review pursuant to Section 4610.5 and not a matter that is subject to expert opinion. If the determination of the independent medical review / administrator is overturned, then another independent medical review, preferably with a different review organization, would be indicated. For the patient of concern, the treating physician's notes in June 2014 clearly indicate that the request for AME is to directly challenge and hopefully reverse the independent medical review that non-certified discography for patient. As the Labor Code sections discussed above address, the AME is not to be used to appeal utilization review or independent review. There is a formal appeals process for that. The AME is an evaluation tool to resolve disputed requests between patient (injured worker) and employer, but would not be indicated to be completed solely to appeal a previous review ruling. The request for AME is not medically necessary.