

<b>Case Number:</b>	CM15-0146013		
<b>Date Assigned:</b>	08/06/2015	<b>Date of Injury:</b>	10/16/2013
<b>Decision Date:</b>	09/14/2015	<b>UR Denial Date:</b>	07/10/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	07/27/2015

### 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: California  
 Certification(s)/Specialty: Physical Medicine & Rehabilitation

### 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 56-year-old male who sustained an industrial injury on 10-16-2013. He has reported lower back pain and has been diagnosed with lumbago, displacement of intervertebral disc, site unspecified, without myelopathy, unspecified myalgia-myositis, thoracic or lumbosacral neuritis or radiculitis, unspecified, degenerative disc herniations spinal stenosis, and discogenic pain syndrome. Treatment has included medications, physical therapy, chiropractic care, and injections. Range of motion was limited. Straight leg raise was at 60 degrees. Multiple disc herniations most prominent L4-5 was noted. The treatment plan included permanent disability, follow up, and medications. The treatment request included acupuncture and a functional capacity evaluation.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Acupuncture reevaluation, lumbar spine qty: 1:** Overturned

**Claims Administrator guideline:** Decision based on MTUS Acupuncture Treatment Guidelines, Chronic Pain Treatment Guidelines Physical Medicine Page(s): 98-99. Decision based on Non-MTUS Citation Official Disability Guidelines-Treatment for Workers'

Compensation (ODG-TWC) ODG Treatment Integrated Treatment/Disability Duration Guidelines Low Back-Lumbar & Thoracic (Acute & Chronic).

**MAXIMUS guideline:** Decision based on MTUS Acupuncture Treatment Guidelines, Chronic Pain Treatment Guidelines Page(s): 13 of 127.

**Decision rationale:** The patient presents with low back pain. The request is for acupuncture reevaluation, lumbar spine qty: 1. the request for authorization is not provided. MRI of the lumbar spine, 02/24/15, shows L3/L4, broad-based central disc protrusion, 4.0 mm, compresses the thecal sac and bilateral L4 descending nerve roots with effacement to the right L3 exiting nerve root; L4/L5, posterior central disc extrusion, 6.1 mm, compresses the thecal sac and bilateral L5 descending nerve roots with spinal canal stenosis; L5/S1, broad-based central disc protrusion, 3.4 mm, effaces the thecal sac with effacement to the left L5 exiting nerve root. Physical examination reveals tenderness in the lumbosacral area. Range of motion is limited. Straight leg raise 60 degrees. Patient's medications include Metformin, Norco and Carisoprodol. Per progress report dated 04/29/15, the patient remains off work. 9792.24.1. Acupuncture Medical Treatment Guidelines. MTUS pg. 13 of 127 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)." Treater does not discuss the request. In this case, it appears the treater is initiating a trial of acupuncture for the patient's symptoms. Review of provided medical records does not indicate the patient previously receiving any acupuncture treatments. Given patient's condition, a trial of acupuncture would be indicated by MTUS guidelines. Therefore, the request is medically necessary.

**Acupuncture treatment, 2-3 times a week, lumbar spine qty: 18: Upheld**

**Claims Administrator guideline:** Decision based on MTUS Acupuncture Treatment Guidelines, Chronic Pain Treatment Guidelines Physical Medicine Page(s): 98-99. Decision based on Non-MTUS Citation Official Disability Guidelines-Treatment for Workers' Compensation (ODG-TWC) ODG Treatment Integrated Treatment/Disability Duration Guidelines Low Back-Lumbar & Thoracic (Acute & Chronic).

**MAXIMUS guideline:** Decision based on MTUS Acupuncture Treatment Guidelines, Chronic Pain Treatment Guidelines Page(s): 13 of 127.

**Decision rationale:** The patient presents with low back pain. The request is for acupuncture treatment, 2-3 times a week, lumbar spine qty: 18. The request for authorization is not provided. MRI of the lumbar spine, 02/24/15, shows L3/L4, broad-based central disc protrusion, 4.0 mm, compresses the thecal sac and bilateral L4 descending nerve roots with effacement to the right L3 exiting nerve root; L4/L5, posterior central disc extrusion, 6.1 mm, compresses the thecal sac and bilateral L5 descending nerve roots with spinal canal stenosis; L5/S1, broad-based central disc protrusion, 3.4 mm, effaces the thecal sac with effacement to the left L5 exiting nerve root. Physical examination reveals tenderness in the lumbosacral area. Range of motion is limited. Straight leg raise 60 degrees. Patient's medications include Metformin, Norco and Carisoprodol. Per progress report dated 04/29/15, the patient remains off work. 9792.24.1. Acupuncture

Medical Treatment Guidelines. MTUS pg. 13 of 127 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)." Treater does not discuss the request. In this case, it appears the treater is initiating a trial of acupuncture for the patient's symptoms. Review of provided medical records does not indicate the patient previously receiving any acupuncture treatments. Given patient's condition, a trial of acupuncture would be indicated by MTUS guidelines. However, MTUS guidelines recommend up to 6 treatments to produce functional improvement. In this case, the request for 18 sessions of Acupuncture exceeds MTUS recommendation. Therefore, the request is not medically necessary.

**Functional capacity evaluation qty: 1: Upheld**

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines Treatment Integrated Treatment/Disability Duration Guidelines Fitness for Duty.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation ACOEM, Chapter 7, pages 137-139.

**Decision rationale:** The patient presents with low back pain. The request is for FUNCTIONAL CAPACITY EVALUATION QTY: 1. The request for authorization is not provided. MRI of the lumbar spine, 02/24/15, shows L3/L4, broad-based central disc protrusion, 4.0 mm, compresses the thecal sac and bilateral L4 descending nerve roots with effacement to the right L3 exiting nerve root; L4/L5, posterior central disc extrusion, 6.1 mm, compresses the thecal sac and bilateral L5 descending nerve roots with spinal canal stenosis; L5/S1, broad-based central disc protrusion, 3.4 mm, effaces the thecal sac with effacement to the left L5 exiting nerve root. Physical examination reveals tenderness in the lumbosacral area. Range of motion is limited. Straight leg raise 60 degrees. Patient's medications include Metformin, Norco and Carisoprodol. Per progress report dated 04/29/15, the patient remains off-work. MTUS does not discuss functional capacity evaluations. 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." Treater does not discuss the request. In this case, the patient has undergone conservative treatment in the form of medications, physical therapy and chiropractic treatments, but continues to have pain. However, provided progress reports do not mention a request for a Functional Capacity Evaluation from the employer or claims administrator. There is no discussion about the current request or prior evaluations in the reports. Furthermore, routine Functional Capacity Evaluation is not supported by ACOEM. Therefore, the request IS NOT medically necessary.