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| <b>Case Number:</b>   | CM15-0148811 |                              |            |
| <b>Date Assigned:</b> | 08/12/2015   | <b>Date of Injury:</b>       | 03/11/2013 |
| <b>Decision Date:</b> | 09/21/2015   | <b>UR Denial Date:</b>       | 07/28/2015 |
| <b>Priority:</b>      | Standard     | <b>Application Received:</b> | 07/31/2015 |

### 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: Texas, Florida, California

Certification(s)/Specialty: Preventive Medicine, Occupational Medicine

### 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 58 year old female, who sustained an industrial injury on March 11, 2013 while working as a social worker. The injury occurred while the injured worker was placing a heavy child in a car seat and experienced a pop in the low back. The injured worker has been treated for low back complaints. The diagnoses have included low back pain, lumbar disc disease, grade I spondylolisthesis, bilateral neuroforaminal stenosis and lumbosacral radiculopathy. Treatment and evaluation to date has included medications, radiological studies, MRI, epidural steroid injections and physical therapy. The injured worker was noted to have had epidural steroid injections on June 8, 2015 which provided 50% improvement in pain. Work status was noted to be permanent and stationary. The injured worker was not working. Current documentation dated July 21, 2015 notes that the injured worker reported low back pain which had improved with epidural steroid injections. The pain, numbness and weakness of the left lower extremity was decreased and only occurred occasionally with prolonged sitting and standing. Examination revealed no motor deficit in the lower extremities. Also noted were hyporeflexic lower limb stretch reflexes. The treating physician's plan of care included requests for Lidoderm patches 5% # 30 with 3 refills and an aquatic therapy program 2 times a week for 12 weeks # 24.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Lidoderm patches 5%, #30 with 3 refills:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Lidoderm (lidocaine patch) Page(s): 56-57.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 56 of 127.

**Decision rationale:** This claimant was injured now over two years ago, in 2013, placing a child in a car seat. Diagnoses include low back pain, lumbar disc disease, grade I spondylolisthesis, bilateral neuroforaminal stenosis and alleged lumbar radiculopathy. As of July, there was still low back pain which improved with epidurals with a decrease in pain, numbness and weakness of the left lower extremity. It now occurs only occasionally. This is a request for Lidoderm. Lidoderm is the brand name for a lidocaine patch produced by Endo Pharmaceuticals. Topical lidocaine may be recommended for localized peripheral pain after there has been evidence of a trial of first-line therapy (tri-cyclic or SNRI anti-depressants or an AED such as gabapentin or Lyrica). This is not a first-line treatment and is only FDA approved for post-herpetic neuralgia. It is not clear the patient had forms of neuralgia, and that other agents had been first used and exhausted. The MTUS notes that further research is needed to recommend this treatment for chronic neuropathic pain disorders other than post-herpetic neuralgia. The request is not medically necessary.

**Aquatic exercise program 2 times a week for 12 weeks (24 sessions):** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Aquatic therapy Page(s): 22.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 98 of 127 and 22 of 127.

**Decision rationale:** As shared previously, this claimant was injured now over two years ago, in 2013 placing a child in a car seat. There was a pop in the low back. Diagnoses included low back pain, lumbar disc disease, grade I spondylolisthesis, bilateral neuroforaminal stenosis and alleged lumbar radiculopathy. As of July, there was still low back pain, which improved with epidurals with a decrease in pain, numbness and weakness of the left lower extremity. It now occurred only occasionally. Specifically regarding aquatic therapy, the cited guides note under Aquatic Therapy: Recommended as an optional form of exercise therapy, where available, as an alternative to land-based physical therapy. Aquatic therapy (including swimming) can minimize the effects of gravity, so it is specifically recommended where reduced weight bearing is desirable, for example extreme obesity. In this case, there is no evidence of conditions that would drive a need for aquatic therapy, or a need for reduced weight-bearing. The MTUS does permit forms of physical therapy in chronic situations, noting that one should allow for fading of treatment frequency (from up to 3 visits per week to 1 or less), plus active self-directed home Physical Medicine. The conditions mentioned are Myalgia and myositis, unspecified (ICD9 729.1): 9-10 visits over 8 weeks; Neuralgia, neuritis, and radiculitis, unspecified (ICD9 729.2) 8-10 visits over 4 weeks; and Reflex sympathetic dystrophy (CRPS) (ICD9 337.2): 24 visits over 16 weeks. This claimant does not have these conditions. Moreover, it is not clear why water aquatic therapy would be chosen over land therapy. Finally, after prior sessions, it is not clear why the patient would not be independent with self-care at this point. Finally, there are especially strong caveats in the MTUS/ACOEM guidelines against over treatment in the

chronic situation supporting the clinical notion that the move to independence and an active, independent home program is clinically in the best interest of the patient. They cite: 1. Although mistreating or under treating pain is of concern, an even greater risk for the physician is over treating the chronic pain patient. Over treatment often results in irreparable harm to the patient's socioeconomic status, home life, personal relationships, and quality of life in general. 2. A patient's complaints of pain should be acknowledged. Patient and clinician should remain focused on the ultimate goal of rehabilitation leading to optimal functional recovery, decreased healthcare utilization, and maximal self actualization. This request for aquatic therapy is not medically necessary.