

Case Number:	CM15-0149327		
Date Assigned:	08/12/2015	Date of Injury:	09/07/2013
Decision Date:	09/30/2015	UR Denial Date:	07/22/2015
Priority:	Standard	Application Received:	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: 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 44 year old male who sustained an industrial injury on 09-07-13. Initial complaints include low back pain. Initial diagnoses are not available. Treatments to date include medications and a lumbar epidural steroid injection. Diagnostic studies include a MRI of the lumbar spine. Current complaints include low back pain as well as insomnia, depression, and constipation. Current diagnoses include chronic pain, lumbar disc displacement, lumbar facet arthropathy, lumbar radiculopathy, and obesity. In a progress note dated 06-15-15 the treating provider reports the plan of care as laparoscopic versus open sleeve gastrectomy, as well as dietary and exercise program, in preparation for back surgery. The requested treatment includes Protein shakes #4 bags.

IMR ISSUES, DECISIONS AND RATIONALES

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

Protein shakes #4 bags: Overturned

Claims Administrator guideline: The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines, Hip and Pelvis Chapter, Protein and energy supplementation.

MAXIMUS guideline: The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation www.aetna.com/cpb/medical/data/1_99/0039.html Aetna Weight Reduction Medications and Programs Number: 0039.

Decision rationale: The current request is for Protein shakes #4 bags. The RFA is dated 06/18/15. Treatments to date include medications and a lumbar epidural steroid injection. The patient is not working. The MTUS, ACOEM and ODG guidelines do not discuss weight loss foods specifically. However, [aetna.com/cpb/medical/data/1_99/0039.html](http://www.aetna.com/cpb/medical/data/1_99/0039.html) Aetna Weight Reduction Medications and Programs Number: 0039- states, "Weight reduction medications and programs are considered medically necessary for members who have failed to lose at least one pound per week after at least 6 months on a weight loss regimen that includes a low calorie diet, increased physical activity, and behavioral therapy, and who meet either of the following selection criteria including: BMI greater than or equal to 30, Coronary heart disease, Dyslipidemia, Hypertension, Obstructive sleep apnea, and Type 2 diabetes mellitus. Weight reduction medications are considered experimental and investigational when these criteria are not met." Per report 06/15/15, the patient presents with chronic lower back pain as well as insomnia, depression, and constipation. The patient's weight is 380lbs. The patient has been recommended for a bariatric evaluation to bring his weight down and then he can become a candidate for low back surgery. The patient has been recommended for a gastric sleeve procedure. The report does not discuss the request for protein shakes, but does states that the patient will begin a dietary program and exercise and was seen by a nutritionist. In this case, the patient is required to bring his weight down before considering low back surgery. A dietary plan including protein shakes and exercise appears reasonable. This request IS medically necessary.