

<b>Case Number:</b>	CM15-0167201		
<b>Date Assigned:</b>	09/04/2015	<b>Date of Injury:</b>	04/15/2008
<b>Decision Date:</b>	10/29/2015	<b>UR Denial Date:</b>	08/10/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	08/25/2015

### 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: New York

Certification(s)/Specialty: Internal 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:

This is a 67-year-old male who sustained an industrial injury on 04-15-2008. Diagnoses include status post lumbar surgery, L3-S1 fusion, on 4-9-2014, with residual right L4-5 sensory paresthesia or hypoesthesia and postoperative pain; intermittent sensory complaints; and loose or broken pedicle screw. Treatment to date has included medication, physical therapy, spinal fusion and bracing. According to the progress notes dated 7-6-2015, the IW (injured worker) reported low back pain with radiation to the lower extremities, worse on the right. He also had complaints of difficulty sleeping due to pain and constipation due to opioid use. On examination, sensation was decreased in the left S1 dermatome. Active range of motion was 60% of normal, flexion; 50%, extension; 60%, right lateral flexion; and 40%, left lateral flexion. Straight leg raise was positive to the left at 70 degrees, producing pain in the posterior buttock, posterior lateral thigh and calf. X-ray of the right shoulder on 5-7-2015 showed a dislocation of the right glenohumeral joint, as described by the provider. On 1-22-2015, an x-ray of the lumbar spine was done, showing pseudoarthrosis at L5-S1 with lucency on the left side and possible fracture of the right S1 pedicle screw; an MRI was to be done for additional information. A request to remove the hardware was denied. Electrodiagnostic testing of the bilateral lower extremities on 2-10-2015 was normal. A request was made for 12 sessions of aquatic physical therapy for the lower back as a trial to manage pain and function; TENS unit rental for 30 days as a re-request, to manage the IW's chronic pain; gym membership for 3 months, as a re-request, to allow the IW to perform his home exercise in a gym setting to strengthen his lower back and prevent flare-ups; and Ibuprofen 10% cream, #1 for chronic pain control and to decrease the amount of Naproxen the IW was taking.

## IMR ISSUES, DECISIONS AND RATIONALES

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

**Aquatic Physical therapy x 12 lower back:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009, Section(s): Aquatic therapy.

**Decision rationale:** MTUS states that exercise programs, including aerobic conditioning and strengthening, are superior to treatment programs that do not include exercise. A therapeutic exercise program is recommended at the start of any treatment or rehabilitation program, unless exercise is contraindicated. MTUS and ODG guidelines recommend 10 physical therapy visits over 8 weeks for medical management of lumbar sprains and strains and intervertebral disc disorders without myelopathy. As time goes, one should see an increase in the active regimen of care or decrease in the passive regimen of care and a fading of treatment of frequency (from up to 3 or more visits per week to 1 or less). MTUS recommends aquatic therapy (including swimming) as an optional form of exercise therapy, where available, as an alternative to land-based physical therapy. It is specifically recommended where reduced weight bearing is desirable, for example extreme obesity, being that it can minimize the effects of gravity. There may be advantages to weightless running in back pain recovery. Per guidelines, the treatment should be monitored and administered by medical professionals. The injured worker complains of ongoing low back pain. Documentation fails to demonstrate a clinical need for reduced weight bearing to establish the medical necessity for an optional form of exercise therapy. The request for aquatic physical therapy x 12 lower back is not medically necessary by MTUS.

**TENS unit x 30 days:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009, Section(s): Transcutaneous electrotherapy.

**Decision rationale:** MTUS guidelines state that a TENS unit may be recommended in the treatment of chronic intractable pain conditions, if there is documentation of pain for at least three months duration, evidence that other appropriate pain modalities including medications have been tried and failed and that a one-month trial period of the TENS unit has been prescribed, as an adjunct to ongoing treatment modalities within a functional restoration program. There should be documentation of how often the unit was used, as well as outcomes in terms of pain relief and function; rental would be preferred over purchase during this trial. A

treatment plan including the specific short- and long-term goals of treatment with the TENS unit should also be submitted. Physician report indicates this is a re-request for TENS unit trial. Documentation provided does not indicate a specific functional program or details regarding previous trial period of TENS unit, to clearly support the medical necessity for another request for a TENS unit. The request for TENS unit x 30 days is not medically necessary by MTUS.

**Gym membership x 3 months:** 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), Low back chapter - Gym memberships.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009, Section(s): Exercise. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back Chapter, Gym memberships.

**Decision rationale:** MTUS states that exercise programs, including aerobic conditioning and strengthening, are superior to treatment programs that do not include exercise. A therapeutic exercise program is recommended at the start of any treatment or rehabilitation program, unless exercise is contraindicated. MTUS does not provide evidence to support the recommendation of any particular exercise regimen over others. Gym memberships, health clubs, swimming pools, athletic clubs, etc., would not generally be considered medical treatment, as they are unsupervised programs and there is no information flow back to the treatment provider. ODG does not recommend Gym membership as a medical prescription unless a documented home exercise program with periodic assessment and revision has not been effective and there is a need for equipment. Per guidelines, the treatment should be monitored and administered by medical professionals. At the time of the requested service under review, documentation fails to show evidence for the need of equipment that cannot be provided as part of a home exercise program. Furthermore, participation in an unsupervised exercise program at a gym poses the risk of causing injury to this injured worker, with no opportunity for progress reports to be submitted to the treatment provider. The request for gym membership x 3 months is not medically necessary per guidelines.

**Ibuprofen 10% cream #1:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009, Section(s): Topical Analgesics.

**Decision rationale:** MTUS states that topical NSAIDs are not recommended for neuropathic pain, but may be useful for short-term treatment (4-12 weeks) of osteoarthritis pain in joints that lend themselves to topical treatment (ankle, elbow, foot, hand, knee, and wrist). Topical NSAIDs have not been evaluated for treatment of the spine, hip or shoulder. There are no long-term studies of their effectiveness or safety. Ibuprofen is not recommended for topical application. Per guidelines, any compounded product that contains at least one drug (or drug class) that is not recommended is not recommended. The request for Ibuprofen 10% cream #1 is not medically necessary per guidelines.