

<b>Case Number:</b>	CM15-0183641		
<b>Date Assigned:</b>	09/24/2015	<b>Date of Injury:</b>	12/03/2013
<b>Decision Date:</b>	10/29/2015	<b>UR Denial Date:</b>	09/04/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	09/18/2015

### 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 47-year-old male, who sustained an industrial injury on December 3, 2013, incurring head, eye, skull and back injuries. He was diagnosed with a fractured skull with subdural hematoma, left orbital fracture, thoracic and lumbar sprains and multiple contusions. Treatment included diagnostic imaging, pain medications, physical therapy, and activity restrictions with modifications. Currently, the injured worker complained of headaches, right wrist and hand pain, mid back pain, shoulder pain and left orbit and facial pain. He rated his pain 8 out of 10 on a pain scale from 1 to 10. His back pain increased with bending forward, doing exercises, straining and lying down. The pain was relieved with rest, medications ice and relaxing. He noted difficulty reading and diplopia and was diagnosed with eye neuropathy. He was also noted to have a hearing loss of the left ear, difficulty concentrating, emotional distress and depression. The treatment plan that was requested for authorization on September 4, 2015, included a prescription for topical Menthoderm gel, a physical performance test and vestibular treatment. On September 18, 2015, a request for Menthoderm topical gel, Physical Performance Test and Vestibular Treatment was denied by utilization review.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Topical menthoderm 15%-120 gm: Upheld**

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009. Decision based on Non-MTUS Citation <http://www.drugs.com/cdi/menthoderm-cream.html>.

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

**Decision rationale:** Per MTUS Chronic Pain Guidelines, the efficacy in clinical trials for topical analgesic treatment modality has been inconsistent and most studies are small and of short duration. These medications may be useful for chronic musculoskeletal pain, but there are no long-term studies of their effectiveness or safety. There is little evidence to utilize topical analgesic over oral NSAIDs or other pain relievers for a patient with spinal and multiple joint pain without contraindication in taking oral medications. Submitted reports have not adequately demonstrated the indication or medical need for this topical analgesic for this chronic injury without documented functional improvement from treatment already rendered. The Topical menthoderm 15%-120 gm is not medically necessary and appropriate.

**Physical Performance Test:** 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), Fitness For Duty Chapter.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009, Section(s): Functional improvement measures.

**Decision rationale:** Though functional capacity evaluations (FCEs) are widely used and promoted, it is important for physicians and others to understand the limitations and pitfalls of these evaluations. Functional capacity evaluations may establish physical abilities, and also facilitate the examinee/employer relationship for return to work. However, FCEs can be deliberately simplified evaluations based on multiple assumptions and subjective factors, which are not always apparent to their requesting physician. There is little scientific evidence confirming that FCEs predict an individual's actual capacity to perform in the workplace; an FCE reflects what an individual can do on a single day, at a particular time, under controlled circumstances, that provide an indication of that individual's abilities. As with any behavior, an individual's performance on an FCE is probably influenced by multiple nonmedical factors other than physical impairments. For these reasons, it is problematic to rely solely upon the FCE results for determination of current work capability and restrictions. It is the employer's responsibility to identify and determine whether reasonable accommodations are possible to allow the examinee to perform the essential job activities. The patient has received a significant amount of conservative treatments without sustained long-term benefit. The patient continues to treat for ongoing significant symptoms with further plan for care without any work status changed. It appears the patient has not reached maximal medical improvement and continues to treat for chronic pain symptoms. Current review of the submitted medical reports has not adequately demonstrated the indication to support for the request for Functional Capacity Evaluation as the patient continues to actively treat. Per the ACOEM Treatment Guidelines on the Chapter for Independent Medical Examinations and Consultations regarding Functional Capacity Evaluation, there is little scientific evidence confirming FCEs' ability to predict an individual's actual work capacity as behaviors and performances are influenced by multiple nonmedical factors, which would not determine the true indicators of the individuals capability or restrictions. The Physical Performance Test is not medically necessary and appropriate.

**Vestibular treatment:** 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 Official Disability Guidelines (ODG) Head, pages 215-216.

**Decision rationale:** Review indicates report of some hearing loss with request for unspecified quantity and goal of vestibular treatment. MTUS is silent on vestibular rehab therapy which may be an exercise-based program for a number of etiologies such as promoting CNS compensation for inner ear deficits associated with non-industrially related Meniere's, labyrinthitis, vestibular neuritis, or may be utilized in post TBI patients. ODG does recommend treatment in post-concussion patients with clear vestibular complaints of dizziness, gait and balance issues; none of which are described here. At this time, medical necessity has not been established. The Vestibular treatment is not medically appropriate and necessary.