

<b>Case Number:</b>	CM15-0188249		
<b>Date Assigned:</b>	09/30/2015	<b>Date of Injury:</b>	08/19/2013
<b>Decision Date:</b>	11/10/2015	<b>UR Denial Date:</b>	09/17/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	09/24/2015

### 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, South Carolina

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

### 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 8-19-13. The injured worker was diagnosed as having foot fracture with open reduction internal fixation. Treatment to date has included physical therapy, a home exercise program, at least 7 acupuncture sessions, and medication including Butrans patches, Norco, and Ultram. Physical examination findings on 7-27-15 included dull sensation in the second and third toes of the right foot, antalgic gait, swelling, and strength loss. On 6-1-15, the treating physician noted "medications as well as acupuncture are proving effective in improving patient's pain levels, function, range of motion, and overall sense of comfort. He has completed what he believes is 6 sessions of acupuncture which he noted has improved his ability to walk further and stand better for longer period of time with less pain. He notes that he feels great after acupuncture for several hours however the pain returns." The most recent acupuncture report provided for review was dated 5-29-15 and noted the "patient reports no change in condition." On 8-26-15, the injured worker complained of right foot and ankle pain rated as 5-6 of 10 with medication and 8-9 without medication. The treating physician requested authorization for acupuncture for the right lower extremity x6 and a functional capacity evaluation. On 9-17-15, the requests were non-certified.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Acupuncture of the right lower extremity x6:** Overturned

**Claims Administrator guideline:** Decision based on MTUS Acupuncture Treatment 2007.

**MAXIMUS guideline:** Decision based on MTUS Acupuncture Treatment 2007. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Pain (Chronic), Acupuncture.

**Decision rationale:** According to the MTUS, acupuncture is used as an option when pain medication is reduced or not tolerated, and can be used as an adjunct to physical rehabilitation and/or surgical intervention. The time to produce functional improvement is within 3 to 6 treatments, up to 1 to 3 times per week. The optimum duration advised is 1 to 2 months, and in addition, acupuncture treatments may be extended if functional improvement is documented. The cited ODG recommends acupuncture as an option for multiple specific body parts, with an initial trial of 3-4 visits over 2 weeks, followed by an additional 8-12 visits, but only if there is evidence of functional improvement. According to the recent treating provider notes from 9-21-15, it clarified that the injured worker had received 6 previous acupuncture treatments for the right lower extremity that reduced pain, decreased edema, and allowed him to stand and walk easier. Although there seems to be some confusion on treatments rendered and authorized, it appears reasonable to continue acupuncture for a total of 12 sessions. Therefore, based on the cited guidelines and medical records available, the request for acupuncture of the right lower extremity x6 is medically necessary.

**Functional capacity evaluation (FCE) x1:** Overturned

**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 summary last updated 9/9/15.

**MAXIMUS guideline:** Decision based on MTUS General Approaches 2004, Section(s): General Approach to Initial Assessment and Documentation. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Fitness For Duty, Functional capacity evaluation (FCE) and Other Medical Treatment Guidelines ACOEM, ch 5, Disability pg 80-81.

**Decision rationale:** Per the ACOEM guidelines cited, a functional capacity evaluation (FCE) can be used to better understand and document the injured worker's (IW) disabling medical condition, and may be necessary to translate medical impairment into functional limitations for determining work capability. However, determining limitations is not really a medical issue, but more an independent assessment of what the IW is currently able and unable to do. Under some circumstances, the FCE can provide guidance as to whether the worker has the ability to stay at work or return to work. According to the ODG, a FCE is recommended prior to admission into a Work Hardening (WH) Program, and is not recommended for routine use as part of occupational rehab, screening, or generic assessment, in which the question is whether the IW can do any job. FCEs can be considered when injuries require detailed exploration of the IW's abilities and they are close to maximal medical improvement. Based on the available treating physician's notes through 9-21-15, the IW is close to maximal medical improvement and Permanent and Stationary status, and would benefit from a FCE. Since the IW is working with restrictions on a trial basis, based on the guidelines cited, the request for a functional capacity evaluation is medically necessary.