

<b>Case Number:</b>	CM15-0198476		
<b>Date Assigned:</b>	10/13/2015	<b>Date of Injury:</b>	04/15/2012
<b>Decision Date:</b>	12/01/2015	<b>UR Denial Date:</b>	10/06/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	10/08/2015

### 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, Hawaii

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 68 year old male, who sustained an industrial injury on April 15, 2012. The injured worker was diagnosed as having bilateral lumbar five radiculopathy, chronic pain syndrome, and axial low back pain. Treatment and diagnostic studies to date has included medication regimen and functional restoration program. In a progress note dated September 28, 2015 the treating physician reports complaints of "significantly prolonged pain" to the low back that radiates to the bilateral lower extremities. Examination performed on September 28, 2015 was revealing for decreased sensation to the medial calves and bilateral extensor hallucis longus muscle weakness. The progress note from September 28, 2015 also noted that the injured worker was unable to walk, stand, push, pull, or carry anything greater than 5 to 10 pounds and "has never been off of temporary disability." On September 28, 2015 the treating physician requested a functional capacity evaluation to assess the injured worker's limitations and abilities. On October 06, 2015, the Utilization Review determined the request for a functional capacity evaluation to be non-certified.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Functional Capacity Evaluation:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Medical Treatment 2009. Decision based on Non-MTUS Citation Official Disability Guidelines - Treatment for Workers' Compensation (ODG-TWC) Fitness for Duty Procedure Summary last updated 09/09/2015.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation ACEOM, Chapter 7, Functional Capacity Evaluation.

**Decision rationale:** The patient presents with diagnoses that include bilateral L5 radiculopathy, chronic pain syndrome and axial low back pain. The current request is for a Functional Capacity Evaluation. The patient is status post lumbar spine surgery, cholecystectomy in 2007. The clinical history documents that the patient has completed a functional restoration program for a total of 4 weeks time, the patient's work status is total temporary disability. The patient recently complained of "significantly prolonged pain" to the low back that radiates to the bilateral lower extremities. The treating physician states in the treating report dated 9/28/15 (4B), "At this time, I am requesting a functional capacity evaluation. The role of the FCE is to look at the patient's limitations and abilities in a more direct fashion. It does meet MTUS Guidelines as the patient does have significant amount of limitations. The goal is to appropriately rate the patient and see what his limitations are. Again, I am requesting an FCE to be authorized." Neither MTUS nor ODG guidelines address functional capacity evaluations. ACOEM does not appear to support functional capacity evaluations unless the employer or claims administrator makes the request following the treating physician making work restriction recommendations. ACOEM guidelines state: "The examiner is responsible for determining whether the impairment results in functional limitations and to inform the examinee and the employer about the examinee's abilities and limitations. The physician should state whether the work restrictions are based on limited capacity, risk of harm, or subjective examinee tolerance for the activity in question. The employer or claim administrator may request functional ability evaluations, also known as functional capacity evaluations, to further assess current work capability. These assessments also may be ordered by the treating or evaluating physician, if the physician feels the information from such testing is crucial." In this case, the clinical history does not indicate that the physician feels the information from such testing is "crucial." Instead the reporting indicates that the requested FCE is to "rate the patient and see what his limitations are." There is no request from the employer or claim administrator for an FCE. There is no documentation that the patient has failed any attempt to return to work since his date of injury. Additionally there is no discussion as to why the treating physician cannot determine whether the impairment results in functional limitations himself. The FCE does not predict the patient's actual capacity to perform in the workplace. The current request is not medically necessary.