

Case Number:	CM15-0207461		
Date Assigned:	10/26/2015	Date of Injury:	08/23/2007
Decision Date:	12/09/2015	UR Denial Date:	09/24/2015
Priority:	Standard	Application Received:	10/22/2015

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 46 year old male who sustained an industrial injury on August 23, 2007. The worker is being treated for: status post lumbar fusion with possible pseudoarthritis; adjacent segment disease, and chronic low back pain. Subjective: August 28, 2015 he reported symptoms unchanged since last visit; completed 6 sessions of physical therapy and states "pain has decreased approximately 10%." He further states having renewed his gym membership and is utilizing it daily trying to increase activity as tolerated. He reports constant low back pain, muscle cramps and poor sleep. Objective: August 28, 2015 noted positive SLR right at 50 degrees eliciting radiation of pain down right leg. Medications: August 28, 2015: Tizanidine, Norco. Diagnostics: CT scan lumbar spine November 2014, lumbar spine radiography study. Treatments: activity modifications, 14 sessions of post-operative acupuncture with improvement; 6 sessions of post-operative chiropractic treatment that "is not helping," and lumbar fusion 2009. On September 22, 2015 a request was made for acupuncture 8 sessions treating low back and a follow up visit that were noncertified by Utilization Review on September 24, 2015.

IMR ISSUES, DECISIONS AND RATIONALES

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

Acupuncture 2x4 for Low Back: Upheld

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

MAXIMUS guideline: Decision based on MTUS Acupuncture Treatment 2007.

Decision rationale: The patient presents with pain in the neck, right shoulder, and lower back. The request is for Acupuncture 2x4 for low back. X-rays of the lumbar spine from 07/02/14 showed lucency around the anterior cage, a lumbar CT scan from 11/21/14 showed postoperative changes at L4-5 with junctional disease at L3-4 and L5-S1 with varying degrees of foraminal narrowing. MRI findings of 05/23/14 showed right sided disc herniation at L4-5 resulting in severe central and foraminal stenosis with varying degrees of stenosis and degenerative changes at other levels, the L4-5 level most significant. Patient is permanent and stationary. MTUS Chronic Pain Medical Treatment Guidelines, page 13 for acupuncture states: "See Section 9792.24.1 of the California Code of Regulations, Title 8, under the Special Topics section." This section addresses the use of acupuncture for chronic pain in the workers' compensation system in California, The MTUS/Acupuncture Medical Treatment Guidelines (Effective 7/18/09) state that there should be some evidence of functional improvement within the first 3-6 treatments. The guidelines state if there is functional improvement, then the treatment can be extended. The treater has not discussed this request; no RFA was provided either. In this case, only two progress notes were provided which did not include objective findings and patient's diagnosis. Per 09/22/15 utilization review letter, the patient has completed 8 sessions of acupuncture with some benefits. The treater, however, has not documented a reduction in pain and functional improvement resulting from the prior acupuncture treatments. MTUS guidelines allow 3-6 initial treatments which can be extended with evidence of functional improvement. Given the lack of documentation as required by the guidelines, this request is not medically necessary.

Follow-Up in 6 Weeks: Overturned

Claims Administrator guideline: Decision based on MTUS Low Back Complaints 2004, Section(s): Follow-up Visits.

MAXIMUS guideline: Decision based on MTUS Low Back Complaints 2004, Section(s): Follow-up Visits. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back - Lumbar & Thoracic (Acute & Chronic) Chapter, under Office visits.

Decision rationale: The patient presents with pain in the neck, right shoulder, and lower back. The request is for Follow-up in 6 weeks. X-rays of the lumbar spine from 07/02/14 showed lucency around the anterior cage, a lumbar CT scan from 11/21/14 showed postoperative changes at L4-5 with junctional disease at L3-4 and L5-S1 with varying degrees of foraminal narrowing. MRI findings of 05/23/14 showed right sided disc herniation at L4-5 resulting in severe central and foraminal stenosis with varying degrees of stenosis and degenerative changes at other levels, the L4-5 level most significant. Patient is permanent and stationary. ACOEM Practice Guidelines, 2nd Edition (2004), chapter 12, Low Back, page 303, for Follow-up Visits states: 'Patients with potentially work-related low back complaints should have follow-up every three to five days by a midlevel practitioner or physical therapist who can counsel the patient about avoiding static positions, medication use, activity modification, and other concerns. Health practitioners should take care to answer questions and make these sessions interactive so that the patient is fully involved in his or her recovery. If the patient has returned to work,

these interactions may be conducted on site or by telephone to avoid interfering with modified or full work activities. Physician follow-up can occur when a release to modified, increased, or full duty is needed, or after appreciable healing or recovery can be expected, on average. Physician follow-up might be expected every four to seven days if the patient is off work and seven to fourteen days if the patient is working.' ODG-TWC Guidelines, Low Back - Lumbar & Thoracic (Acute & Chronic) Chapter, under Office visits Section states, "Recommended as determined to be medically necessary. The need for a clinical office visit with a health care provider is individualized based upon a review of the patient concerns, signs and symptoms, clinical stability, and reasonable physician judgment." The treater has not discussed this request; no RFA was provided either. In this case, only two progress notes were provided which did not include objective findings and patient's diagnosis. The patient continues with pain in the low back, neck, and the right shoulder. ODG guidelines recommend office visits with the primary treating physician to review patient concerns, signs and symptoms, and progress. Therefore, the request is medically necessary.