

Case Number:	CM15-0219582		
Date Assigned:	11/12/2015	Date of Injury:	03/10/2007
Decision Date:	12/29/2015	UR Denial Date:	10/06/2015
Priority:	Standard	Application Received:	11/09/2015

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 42 year old male with an industrial injury date of 03-10-2007. Medical record review indicates he is being treated for status post partial laminectomy at lumbar 4-5 with redo laminar fusion lumbar 4-5, left shoulder tendinopathy, type 2 diabetes and gastroesophageal reflux disease. Subjective complaints (09-23-2015) included "severe" back pain, muscle spasms, pain that radiates in both legs and ongoing left shoulder and upper extremity pain. He rates his pain as 8 out of 10, at best as 4 out of 10 with medications and 10 out of 10 without medications. He reported a 50% reduction in his pain and functional improvement with activities of daily living with the medications versus not taking them at all. The treating physician document the injured worker's weight as 229 pounds and requested authorization for Phentermine use for a 3 month period to augment his weight, diet and exercise. Current (09-23-2015) medications included Hysingla ER, Ibuprofen, Nexium, Lyrica, Flexeril, Invokana, Metformin and Zolof. Prior treatment included medications, back brace, knee braces, chiropractic treatments and surgery. Physical exam (09-23-2015) revealed limited range of motion of the back with sensory loss to light touch and pinprick at the left lateral calf and bottom of his foot. Bilateral knee exam revealed crepitus in flexion to extension passively. Left shoulder exam revealed tenderness over the subacromion with limited range of motion and left wrist was tender over the dorsum of the wrist. Passive range was painful. On 10-06-2015 the request for unknown prescription of Phentermine and one functional capacity evaluation was non-certified by utilization review.

IMR ISSUES, DECISIONS AND RATIONALES

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

Unknown prescription of Phentermine: Upheld

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

MAXIMUS guideline: The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Aetna Bulletin number 0039.

Decision rationale: The 42 year old patient complains of severe back pain radiating to bilateral legs, left shoulder and upper extremity pain and numbness, and tingling in the left hand, as per progress report dated 09/23/15. The request is for Unknown prescription of phentermine. The RFA for this case is dated 09/25/15, and the patient's date of injury is 03/10/07. The pain is rated at 4/10 with medications and 8/10 without medications, as per progress report dated 09/23/15. The patient is status post L4-5 partial laminectomy with redo laminar fusion. Diagnoses also included chronic low back pain, radicular symptoms, subjective bilateral weakness in legs with legs giving out, left shoulder tendinopathy, type II diabetes, GERD, erectile dysfunction, history of elevated liver enzymes, history of reactive depression, neuropathic pain, and history of bilateral foot pain and plantar fasciitis. Medications included Hysingla, Ibuprofen, Nexium, Lyrica, Flexeril, Invokana, Metformin and Zoloft. The patient is on Social Security disability, and is not working, as per progress report dated 04/16/15. The MTUS, ACOEM and ODG Guidelines do not address this request. However, Aetna Bulletin number 0039 states that weight reduction medications are considered medically necessary for members who have failed to lose at least 1 pound per week after at least 6 months on a weight loss regimen. In addition, Aetna includes the following criteria: Member has a body mass index of greater than or equal to 30 kg/m² or member has BMI greater than or equal to 27 kg/m² and any of the obesity related risk factors including coronary heart disease, dyslipidemia, etc. As per progress report dated 09/23/15, the patient's weight has increased to 229 lbs. The treater is requesting for a 3 month supply of Phentermine to "augment his weight diet and exercise." In a prior report dated 06/04/15, the treater states that the patient "would like to get in some type of diet and exercise program or at least a dietary consult for diabetes, perhaps a weight loss program." The reports, however, do not provide details regarding the patient's current weight-loss regimen, what programs have been tried, and why they haven't been successful. In this case, the patient does not meet the criteria set forth by AETNA for weight loss medications. The request is not medically necessary.

1 Functional capacity evaluation: Upheld

Claims Administrator guideline: The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines, Fitness for Duty: Functional Capacity Evaluation.

MAXIMUS guideline: The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation ACOEM chapter 7, page 137-139.

Decision rationale: The 42 year old patient complains of severe back pain radiating to bilateral legs, left shoulder and upper extremity pain and numbness, and tingling in the left hand, as per progress report dated 09/23/15. The request is for 1 functional capacity evaluation. The RFA for this case is dated 09/25/15, and the patient's date of injury is 03/10/07. The pain is rated at 4/10 with medications and 8/10 without medications, as per progress report dated 09/23/15. The patient is status post L4-5 partial laminectomy with redo laminar fusion. Diagnoses also included chronic low back pain, radicular symptoms, subjective bilateral weakness in legs with legs giving out, left shoulder tendinopathy, type II diabetes, GERD, erectile dysfunction, history of elevated liver enzymes, history of reactive depression, neuropathic pain, and history of bilateral foot pain and plantar fasciitis. Medications included Hysingla, Ibuprofen, Nexium, Lyrica, Flexeril, Invokana, Metformin and Zoloft. The patient is on Social Security disability, and is not working, as per progress report dated 04/16/15. MTUS does not discuss functional capacity evaluations. ACOEM chapter 7, page 137-139 states that the "examiner is responsible for determining whether the impairment results in functional limitations... The employer or claim administrator may request functional ability evaluations... may be ordered by the treating or evaluating physician, if the physician feels the information from such testing is crucial." ACOEM further states, "There is little scientific evidence confirming that FCE's predict an individual's actual capacity to perform in the workplace." As per progress report dated 09/23/15, the functional capacity evaluation was requested in the AME report. As per AME report dated 05/08/14, "the combined effects of the neuro-orthopedic difficulties, internal medicine issues, urological issues, and emotional issues render this patient most likely unable to compete in the open labor market. However, this cannot be determined in the absence of a functional capacity assessment by a vocational rehabilitation expert." ACOEM, however, states that "there is little scientific evidence confirming that FCE's predict an individual's actual capacity to perform in the workplace." Additionally, there is no request from the employer or claims administrator. Routine FCE's are not recommended as they do not necessarily predict a patient's ability to work. Hence, the request is not medically necessary.