

<b>Case Number:</b>	CM15-0034097		
<b>Date Assigned:</b>	03/02/2015	<b>Date of Injury:</b>	12/24/2008
<b>Decision Date:</b>	04/14/2015	<b>UR Denial Date:</b>	01/29/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	02/24/2015

### 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

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 40 year old female, who sustained an industrial injury reported on 12/24/2008. She reported moderate, non-radiating low back pain. The diagnoses were noted to include cervicobrachial syndrome; lumbosacral spondylosis without myelopathy; displacement of lumbar disc without myelopathy; and lumbago. The history notes a motor vehicle accident and treatment with a diagnostic, and therapeutic, lumbar facet block, in 10/2008. Treatments to date have included consultations; diagnostic imaging studies; independent swimming and Pilates therapy; acupuncture; occupational therapy; transcutaneous electrical stimulation unit therapy; weaning of several medications; and medication management, including a return to narcotic medications. The work status classification for this injured worker (IW) was noted to be permanent and stationary, with a return to work on permanent restrictions, as of 6/2014. The review or records report, dated 9/24/2014, notes a slowly worsening low back pain 5 weeks status-post liposuction surgery on 5/8/14, and she denied trauma but complained of severe, non-radiating back pain with no relief on 8 Norco per day; the impression was for cellulitis and infection, with swelling, in the low back (from 7/2008). Also a history of gastric bypass surgery with dysuria, and neurology consultation with diagnosed neuropathic bilateral back pain was noted in 7/2008. 2010 notes a drug-induced liver injury; and severe substance, narcotic, abuse with slow tapering of medications. Her first medication induced (benzodiazepine and narcotics) seizure (non-industrial) was noted in 5/2011. 2012 notes lumbar facet arthropathy for which radiofrequency ablation of right lumbar branch nerves was performed, followed by the left, 1 month later, and noting a 50% improvement in low back pain until 9/2012. In 9 & 10/2012,

radiating low back pain, and weight gain, is reported, and noted, for which a spinal cord stimulator and gastric bypass surgery were recommended. She was returned to regular work with minor recommended accommodations. June 2014 notes inconsistent behavior to complaints, and a request to be excused from work; the physician notes she will be discharged when next seen. On 1/29/2015, Utilization Review (UR) non-certified, for medical necessity, the request, made on 1/23/2015, for Flector Patch, 1 patch twice a day, #60; and physical therapy, with aqua therapy, 2 sessions. The Medical Treatment Utilization Schedule, chronic pain medical treatment guidelines, topical anesthetics, non-steroidal anti-inflammatory drugs, physical medicine treatment, transcutaneous electrical stimulation unit instruction and electrotherapy, transcutaneous electrical nerve stimulation, aquatic therapy, was cited.

### **IMR ISSUES, DECISIONS AND RATIONALES**

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

**Med flector patch #60:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Topical analgesic Page(s): 111-113.

**Decision rationale:** The 1/29/15 Utilization Review letter states the Flector patch, #60 requested on the 1/15/15 medical report was denied because "in the absence of a history of gastrointestinal dysfunction/distress, the medical necessity for the long-term use of Dicofenac (Flector) patch is not supported." Unfortunately, the 1/15/15 medical report was not provided for this review. According to the 2/26/15 physiatrist report, she had been hospitalized for pancreatitis since the last visit. The diagnosis for her industrial injury is: chronic lower back pain with facetogenic sources; and pain induced depression and anxiety. She has been able to return to work with the Nucynta, Duloxetine. Lyrica caused weight gain, so the physician will try Topiramate. The report states Flector patches were not effective. The request presented for IMR appears to be a retrospective trial of Flector patches from 1/15/15. The prior report is dated 12/4/14 and does not mention Flector patches, and the subsequent report on 2/26/15 states the Flector patches were not effective. The question becomes whether the trial of Flector patches on 1/15/15 was appropriate. This becomes difficult as the 1/15/15 report was not available for this review. MTUS, pg 111-113, Topical Analgesics section under Non-steroidal anti-inflammatory agents (NSAIDs) states: "The efficacy in clinical trials for this treatment modality has been inconsistent and most studies are small and of short duration." These are not recommended for neuropathic pain and "There is little evidence to utilize topical NSAIDs for treatment of osteoarthritis of the spine, hip or shoulder." Most likely, the trial of Flector patches would not be necessary. The diagnoses on 12/4/14 involves the lumbar spine and psyche issues. The diagnoses on the 2/26/15 report also only includes the lumbar spine and psyche issues. The MTUS guidelines are clear that topical NSAIDs such as the Flector patch are only for joints amenable to topical treatment, and not the spine, hip or shoulder. The Flector patch would not be appropriate for the lumbar spine. Based on the limited records provided, it appears the request for the Flector patch, #60, IS NOT medically necessary.

**Physical therapy with 2 aqua therapy sessions: Overturned**

**Claims Administrator guideline:** The Claims Administrator did not cite any medical evidence for its decision.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 299, Chronic Pain Treatment Guidelines Aquatic therapy, Physical medicine Page(s): 22, 98-99.

**Decision rationale:** The 1/29/15 Utilization Review letter states the Physical therapy with aqua therapy, 2 sessions requested on the 1/15/15 medical report was apparently denied because the injury is 5-years old and the patient has been participating in independent swimming and Pilates. Unfortunately, the 1/15/15 medical report was not provided for this review. According to the 2/26/15 physiatry report, she had been hospitalized for pancreatitis since the last visit. The diagnosis for her industrial injury is: chronic lower back pain with facetogenic sources; and pain induced depression and anxiety. She has been able to return to work with the Nucynta, Duloxetine. Lyrica caused weight gain, so the physician will try Topiramate. The report states Flector patches were not effective. The patient received a previously requested TENS unit through the mail, but it did not come with supplies. The physician requested PT with aquatic therapy, 2 sessions for flexibility and strength and instructions on how to use the TENS unit. MTUS Chronic Pain Medical Treatment Guidelines, pg 22 for aquatic therapy states: Recommended as an optional form of exercise therapy, where available, as an alternative to land-based physical therapy. "For recommendations on the number of supervised visits, see Physical medicine. MTUS Chronic Pain Medical Treatment Guidelines, Physical Medicine section, pages 98-99 states that 8-10 sessions of therapy are indicated for various myalgias or neuralgias. MTUS/ACOEM Chapter 12, Low Back Complaints, page 299, Table 12-5." Methods of Symptom Control For Low Back Complaints for Physical Therapy Interventions states: 1-2 visits for education, counseling, and evaluation of home exercise for range of motion and strengthening. The request for 2 sessions of PT with aquatic therapy for instructions, range of motion and strengthening appears to be in direct accordance with the MTUS/ACOEM guidelines. The Physical therapy with aqua therapy, 2 sessions, IS medically necessary.