

<b>Case Number:</b>	CM15-0040172		
<b>Date Assigned:</b>	03/10/2015	<b>Date of Injury:</b>	09/21/2012
<b>Decision Date:</b>	04/24/2015	<b>UR Denial Date:</b>	02/12/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	03/03/2015

### 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: Arizona, Michigan

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

### 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 (IW) is a 56-year-old male who sustained an industrial injury on 09/21/2012. According to the progress notes dated 2/2/15, the IW reported persistent neck pain rated 7/10 and lower back pain rated 7-9/10. The IW was diagnosed with status post left lumbar spine radical discectomy and multilevel disc disease. Treatment to date has included medications. Diagnostic testing included MRIs of the cervical and lumbar spine and EMG/NCS. It was noted that the IW's pain is improved with prescribed medications; chiropractic treatment is included in the provider's treatment plan.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Kera-Tek analgesic gel, 4 ounces:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Topical Analgesics Section.

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

**Decision rationale:** Per the MTUS, topical analgesics are recommended as an option, they are largely experimental in use with few randomized controlled trials to determine efficacy or safety. They are primarily recommended for neuropathic pain when trials of antidepressants and anticonvulsants have failed. Many agents are compounded as monotherapy or in combination for pain control, any compounded product that contains at least one drug or drug class that is not recommended is not recommended. Kera-Tek is menthol/methyl salicylate. A review of the injured workers medical records do not show a failed trial of other recommended first line treatments and therefore the request for Kera-Tek analgesic gel, 4 ounces is not medically necessary.

**One year gym membership:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 12 Low Back Complaints, Chapter 14 Ankle and Foot Complaints Page(s): 288, 298 - 300 and 374 - 375, respectively.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back - Lumbar & Thoracic (Acute & Chronic) / gym memberships.

**Decision rationale:** The MTUS/ACOEM did not specifically address the use of gym memberships and therefore other guidelines were consulted. Per the ODG gym memberships are not recommended as a medical prescription unless a home exercise program has not been effective and there is a need for equipment. Plus, treatment needs to be monitored and administered by medical professionals. While an individual exercise program is of course recommended, more elaborate personal care where outcomes are not monitored by a health professional, such as gym memberships or advanced home exercise equipment, may not be covered under this guideline, although temporary transitional exercise programs may be appropriate for patients who need more supervision. With unsupervised programs there is no information flow back to the provider, so he or she can make changes in the prescription, and there may be risk of further injury to the patient. Gym memberships, health clubs, swimming pools, athletic clubs, etc., would not generally be considered medical treatment, and are therefore not covered under these guidelines. A review of the injured workers medical records do not show extenuating circumstances that would necessitate deviating from the guidelines and therefore the request for one-year gym membership is not medically necessary.

**One consultation with the podiatrist:** Upheld

**Claims Administrator guideline:** Decision based on MTUS ACOEM Chapter 14 Ankle and Foot Complaints Page(s): 362.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 14 Ankle and Foot Complaints Page(s): 374-375.

**Decision rationale:** Per the MTUS/ACOEM, referral for surgical consultation may be indicated for patients with activity limitation for more than one month without signs of functional improvement, failure of exercise programs to increase range of motion and strength of the musculature around the ankle and foot, clear clinical and imaging evidence of a lesion that has been shown to benefit in both the short and long term form surgical repair. However a review of the injured workers medical records that are available to me do not reveal any subjective or objective findings of any foot problems that would require a consultation with a podiatrist and

therefore the request for one consultation with the podiatrist is not medically necessary.

**Six chiropractic therapy sessions:** Overturned

**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 Chiropractic treatment, Manual therapy and manipulation Page(s): 30, 58-60.

**Decision rationale:** Per the MTUS, Chiropractic care also known as manual therapy and manipulation are recommended for chronic pain if caused by musculoskeletal conditions, the intended goal or effect of manual medicine is the achievement of positive symptomatic or objective measurable gains in functional improvement that facilitate progression in the patients therapeutic exercise program and return to productive activities. Per the MTUS, for the low back therapeutic care a trial of 6 visits over 2 weeks, with evidence of objective functional improvement, total of up to 18 visits over 6-8 weeks, for recurrences or flare up, need to re-evaluate treatment success, if RTW is achieved then 1-2 visits every 4-6 months. Time to produce effect 4-6 treatments. Based on the guidelines it would appear that the request for six chiropractic therapy sessions is medically necessary.

**One urine toxicology screening:** Overturned

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Drug testing Page(s): 43. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Pain (Chronic) / Urine drug screen.

**Decision rationale:** Per the MTUS, Drug testing is recommended as an option, using a urine drug screen to assess for the use or the presence of illegal drugs, however the MTUS did not address frequency of drug testing therefore other guidelines were consulted. Per the ODG Urine drug testing is recommended as a tool to monitor compliance with prescribed substances, identify use of undisclosed substances, and uncover diversion of prescribed substances. The test should be used in conjunction with other clinical information when decisions are to be made to continue, adjust or discontinue treatment. This information includes clinical observation, results of addiction screening, pill counts, and prescription drug monitoring reports. The prescribing clinician should also pay close attention to information provided by family members, other providers and pharmacy personnel. The frequency of urine drug testing may be dictated by state and local laws. Frequency of urine drug testing should be based on documented evidence of risk stratification including use of a testing instrument. Patients at 'low risk' of addiction/aberrant behavior should be tested within six months of initiation of therapy and on a yearly basis thereafter. There is no reason to perform confirmatory testing unless the test is inappropriate or there are unexpected results. If required, confirmatory testing should be for the questioned drugs only. Patients at 'moderate risk' for addiction/aberrant behavior are recommended for point of contact screening 2 to 3 times a year with confirmatory testing for inappropriate or unexplained results. This includes patients undergoing prescribed opioid changes without success, patients with a stable addiction disorder, those patients in unstable and/or dysfunction social situations, and for those patients with co-morbid psychiatric pathology. Patients at 'high risk' of adverse outcomes may require testing as often as once per month. This category generally includes

individuals with active substance abuse disorders. However a review of the injured workers medical records that are available to me reveals that he has been on opioids and the use of urine drug testing in chronic pain patients on opioids is prudent, therefore the request for one urine toxicology screening is medically necessary.