

<b>Case Number:</b>	CM15-0057147		
<b>Date Assigned:</b>	04/02/2015	<b>Date of Injury:</b>	11/06/2008
<b>Decision Date:</b>	05/18/2015	<b>UR Denial Date:</b>	02/19/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	03/25/2015

### 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: New York  
 Certification(s)/Specialty: Emergency 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 is a 51 year old male who has reported foot and ankle pain after a sprain injury on 11/06/2008. The diagnoses have included left ankle sprain, arthritis, and status-post fusion in 2010. Treatment to date has included physical therapy, bracing, surgery, and medication. The treating physician reports in 2014 reflect ongoing ankle pain treated with physical therapy, bracing, analgesics, orthotics, and NSAIDs. None of the physical therapy or physician reports describe any specific exercises which would require a gym facility. Per the PR2 of 01/14/2015, there was ongoing left ankle pain, worse with walking one hour in his sneakers. There was a generalized effusion, tenderness, and crepitus. The diagnosis was arthritis. The treatment plan included a gym membership, cooling machine, cold therapy, annual sneakers and tennis shoes. The specific indications for any of these requests were minimal. The cooling machine was to "diminish the inflammatory change." The gym membership was to continue the physical therapy regimen. On 2/19/15 Utilization Review non-certified a cold therapy compression device, a gym membership, a cooling machine, and annual shoes. An ankle brace was certified. Note was made of the lack of guideline support for the non-certified items. The MTUS and the Official Disability Guidelines were cited.

### IMR ISSUES, DECISIONS AND RATIONALES

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

**Cold therapy compression:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG)-ankle and foot chapter, continuous-flow cryotherapy.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 14 Ankle and Foot Complaints Page(s): 269-370. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Foot and ankle chapter, Continuous-flow cryotherapy; ACOEM Guidelines, Updated Chronic Pain Section, Page 166, 168; heat and cold therapies.

**Decision rationale:** The treating physician has not defined this device, if that is what it is, rather than a recommendation to use ice packs. The Official Disability Guidelines recommends against continuous-flow cryotherapy for the ankle. The MTUS for Chronic Pain does not provide direction for the use of cold to treat chronic pain. The ACOEM Guidelines pages 369-370 recommend cold packs during the first few days for ankle pain, and heat packs thereafter. There is no recommendation for any specific device in order to accomplish this. Heat and cold can be applied to the skin using simple home materials, e.g. ice and hot water, without any formal medical device or equipment. Per Page 48 of the Guidelines, heat or cold may be used for two weeks or less. This patient's condition is long past the two-week duration. The updated ACOEM Guidelines for Chronic Pain are also cited. There may be some indication for cold therapy, but the recommendation is for home application of non-proprietary, low-tech, therapy in the context of functional restoration. There is no evidence of any current functional restoration program. The treating physician has not provided any information in support of the specific devices prescribed for this patient, and the nature of the requested device was not explained. The cold compression device prescribed for this injured worker is not medically necessary based on the MTUS, other guidelines, and lack of a sufficient treatment plan.

**Gym membership:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines exercise. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG)-foot and ankle chapter, gym memberships.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines All therapies are focused on the goal of functional restoration, Physical Medicine, Exercise Page(s): 9, 99, 47. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back chapter, Knee chapter, Gym memberships.

**Decision rationale:** The MTUS recommends progression to home exercise after supervised active therapy. "Home" exercise is recommended, not a gym. The treating physician has provided no formal exercise program, no discussion of specific activities which require attendance at the gym, and no plan for monitoring of gym activities. There are no medical reports which provide a satisfactory explanation why a gym membership is necessary rather than exercise performed elsewhere. There are no necessary exercises for the ankle which can only be performed in the gym. Medical necessity, if any, is based on the requirement that this patient

must have access to specific exercise modalities only available in the gym. The MTUS for chronic pain does not provide direction for using a gym, although it does state that no specific exercise is better than any other for chronic pain. The Official Disability Guidelines, cited above, states that gym memberships are "not recommended as a medical prescription unless a documented home exercise program with periodic assessment and revision has not been effective and there is a need for equipment. Plus, treatment needs to be monitored and administered by medical professionals." None of these criteria have been met in this case. The gym membership is therefore not medically necessary.

**Cooling machine:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG)-continuous-flow cryotherapy.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Foot and ankle chapter, Continuous-flow cryotherapy.

**Decision rationale:** The MTUS does not provide direction for cooling units. The Official Disability Guidelines recommends against these devices for the foot and ankle. The treating physician has not defined the device in this case. The treating physician has not provided evidence to support a deviation from the guidelines. The treating physician has not explained how a cooling machine will decrease the inflammation of arthritis; there are no devices that halt the progression of degenerative arthritis. The unit is therefore not medically necessary as prescribed.

**Annual sneakers and tennis shoes:** Upheld

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG)-ankle and foot orthotic devices.

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 14 Ankle and Foot Complaints Page(s): 370, 376. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) foot and ankle chapter, orthotic devices; UpToDate, Nonpharmacologic therapy of osteoarthritis, physical therapy and orthoses.

**Decision rationale:** The treating physician has not provided evidence of a medical condition in the injured worker for which specific kinds of footwear are medically necessary. The report which discusses footwear notes the onset of pain after an hour of walking in sneakers. An arthritic joint will predictably have pain after prolonged weight-bearing, regardless of the kind of footwear. The MTUS does not address the treatment of ankle arthritis or have references to specific kinds of footwear. The UpToDate section cited above provides some important details regarding exercise and assistive devices, including those which change the forces on the affected joint. It is possible that there is kind of shoe or assistive device which would beneficially impact

the arthritic joint in this case but the treating physician has not provided any evidence that the non-specific reference to sneakers and annual shoes is based on any medical evidence or specific therapeutic goal. Absent more specific information regarding a specific kind of footwear or assistive device that is likely to alter the forces on the ankle and produce a symptomatic and functional benefit, as discussed in the cited guideline, the non-specific request for sneakers and shoes is not medically necessary.