

<b>Case Number:</b>	CM15-0087316		
<b>Date Assigned:</b>	05/11/2015	<b>Date of Injury:</b>	07/28/2011
<b>Decision Date:</b>	06/11/2015	<b>UR Denial Date:</b>	04/10/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	05/06/2015

### 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, Indiana, New York  
 Certification(s)/Specialty: Internal 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 52-year-old male who sustained an industrial injury on 07/28/2011. The injured worker was diagnosed with recurrent lumbar radiculopathy at L5-S1, lumbar disc herniation at L4-L5, thoracic radiculopathy, cervical spine sprain/strain, headaches and depression. The injured worker is status post lumbar disc replacement at L5-S1 in 2006. Treatment to date includes diagnostic testing, most recent lumbar magnetic resonance imaging (MRI) in February 2014, surgery, epidural steroid injections, physical therapy, assistive device for ambulation and medications. According to the treating physician's progress report on March 13, 2015, the injured worker continues to experience right low back pain with radiation to the right leg to the foot and up the mid back to his neck. The injured worker rates his pain level at 6-8/10, increasing to 9/10 with certain activities and down to 3-4 with medications, which lasts four to six hours. Examination of the cervical spine demonstrated tenderness of the right upper thoracic paravertebral muscles, right trapezius and rhomboid muscles with decreased range of motion in all planes. The lumbar spine examination noted decreased range of motion and tenderness to palpation over the right lumbar paravertebral muscles and gluteal muscles associated with 2-3 mm muscle induration at each site. There was a twitch response causing pain that radiates up and down the spine and into the gluteal region. Straight leg raise was positive at 30 degrees on the right and positive at 60 degrees on the left. No atrophy was present. Sensory deficits were noted along C5, C6, C7, T6, T7, L4, L5 and S1 dermatomes bilaterally. There was weakness of the gastrocnemius, anterior tibialis and extensor hallucis longus muscle on the right more than the left side. Right patellar and Achilles tendon reflexes were absent compared to the

left. Gait was antalgic to the right and a cane was used for ambulation. Current medications are listed as Naproxen, Hydrocodone, Omeprazole, Dendracin lotion and Promolaxin. Treatment plan consists of continuing with medication regimen, trial of H wave therapy and the current request for one-year gym membership for treadmill and pool exercises.

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

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

**1 year gym membership:** 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) Low Back.

**MAXIMUS guideline:** The Expert Reviewer did not base their decision on the MTUS. Decision based on Non-MTUS Citation Pain section, Gym membership.

**Decision rationale:** Pursuant to the Official Disability Guidelines, 1-year gym membership is not medically necessary. Gym memberships are not recommended as a medical prescription unless a documented home exercise program periodic assessment, revision has not been effective, and there is a need for equipment. Plus, treatment needs to be monitored and administered by medical professionals area 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. In this case, the injured worker's working diagnoses are cervical and lumbar strain; fusion; headaches; and depression. Documentation according to a February 11, 2015 progress note states the injured worker had weight gain and needs to lose weight. The treating provider recommended a gym membership with pool and treadmill. Subjective symptoms include neck, back and radicular symptoms. Objectively, there is "residual tenderness of the cervical and lumbar spasm". Gym memberships, health clubs, swimming pools, athletic clubs, etc., would not generally be considered medical treatment and are therefore not covered under these guidelines. Consequently, absent guideline recommendations for gym memberships, 1-year gym membership is not medically necessary.