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| <b>Case Number:</b>   | CM14-0210861 |                              |            |
| <b>Date Assigned:</b> | 12/23/2014   | <b>Date of Injury:</b>       | 05/02/2011 |
| <b>Decision Date:</b> | 03/04/2015   | <b>UR Denial Date:</b>       | 11/18/2014 |
| <b>Priority:</b>      | Standard     | <b>Application Received:</b> | 12/16/2014 |

### 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: Texas, Ohio, California

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 applicant is a represented [REDACTED] employee who has filed a claim for chronic low back pain reportedly associated with an industrial injury of May 2, 2011. In a Utilization Review Report dated November 18, 2014, the claims administrator denied a request for TENS unit purchase. The claims administrator noted that the applicant was status post earlier lumbar laminectomy surgery. The claims administrator referenced a progress note and associated RFA form of October 27, 2014. The claims administrator's rationale was extremely sparse. The claims administrator simply quoted large portions of the MTUS Chronic Pain Medical Treatment Guidelines and did not state whether or not the applicant had or had not had previous trials of TENS unit. The applicant's attorney subsequently appealed. On October 27, 2014, the applicant reported persistent complaints of low back pain status post earlier lumbar discectomy. The attending provider noted that the applicant had not received authorization for TENS unit. The attending provider noted that the applicant still had residual lumbar radicular complaints. The applicant was asked to try and lose weight, obtain a weight reduction program, and employ a TENS unit. The applicant's work status was not clearly stated. The applicant was using Tylenol for pain relief. On July 22, 2014, the attending provider reiterated his request for a TENS unit purchase. Again, however, there is no mention of the applicant having had a one-month trial of the same. On September 15, 2014, the applicant's primary treating provider, a chiropractor, endorsed a rather proscriptive 10-pound lifting limitation. It was not clearly stated whether the applicant was or was not working with said limitations in place, although this did not appear to be the case.

## IMR ISSUES, DECISIONS AND RATIONALES

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

**TENS Unit-Purchase:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Transectaneous Electrical Nerve Stimulation (TENS) Page(s): 114-1.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Criteria for the Use of TENS Page(s): 116.

**Decision rationale:** As noted on page 116 of the MTUS Chronic Pain Medical Treatment Guidelines, a purchase of the TENS unit should be predicated on evidence of a favorable outcome during an earlier one-month trial of the same, in terms of both pain relief and function. Here, however, the attending provider seemingly sought authorization to purchase the device at issue via progress notes of July 22, 2014 and October 27, 2014, without evidence of the applicant's having previously completed a successful one-month trial of the same. Therefore, the request was not medically necessary.

**Weight Loss Program:** Overturned

**Claims Administrator guideline:** The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation CMS 40.5 - Treatment in Obesity

**MAXIMUS guideline:** Decision based on MTUS ACOEM Chapter 1 Prevention Page(s): 11. Decision based on Non-MTUS Citation Medscape, Obesity Treatment and Management Article.

**Decision rationale:** While the MTUS Guideline in ACOEM Chapter 1, page 11 notes that strategies based on modification of an individual's risk factors such as the weight loss program at issue may be "less certain, more difficult, and possibly less cost effective," in this case, the applicant is apparently considering/contemplating bariatric surgery. A weight loss program, thus, is certainly more cost effective here. A more updated medical treatment guideline in the form of Medscape's Obesity Treatment and Management Article notes that evidence does support the use of commercial weight loss programs, noting that such programs are more effective than weight loss programs led by primary care staff. For all of the stated reasons, the request is medically necessary. As noted in MTUS 9792.25(a), while the MTUS is presumptively correct, this presumption may be controverted by preponderance of scientific medical evidence establishing that a variance from the schedule is reasonably required to cure or relieve the applicant from the effects of the injury. Here, the specifics of the applicant's case, namely the fact that the applicant is contemplating bariatric surgery, do make a compelling case for a variance from the MTUS guideline. Therefore, an alternate guideline was invoked.

