

Case Number:	CM15-0046639		
Date Assigned:	03/18/2015	Date of Injury:	04/29/2013
Decision Date:	04/23/2015	UR Denial Date:	03/02/2015
Priority:	Standard	Application Received:	03/11/2015

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: Texas, New York, 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 57-year-old [REDACTED] beneficiary who has filed a claim for chronic upper back, neck, shoulder, elbow, forearm, and wrist pain reportedly associated with cumulative trauma at work through April 29, 2013. In a Utilization Review Report dated March 2, 2015, the claims administrator failed to approve a request for Biofreeze gel and a gym membership. A February 23, 2015 RFA form was referenced in the determination. The applicant's attorney subsequently appealed. In a psychiatric medical-legal evaluation dated February 5, 2015, the applicant was described as working on a part-time basis, despite various chronic pain issues, depressive symptoms, and anxiety. The applicant had episodic issues with panic attacks, it was further noted, superimposed on issues with somatoform disorder, the medical-legal evaluator noted. The applicant was also having issues with an ergonomically-unfriendly workstation, it was further reported. The applicant was described as doing various activities for exercise, including swimming and hiking, it was suggested in some sections of the note. The remainder of the file was surveyed. The majority of the information furnished comprised of historical medical-legal evaluations, it was incidentally noted. In a progress note dated February 18, 2015, the applicant reported ongoing complaints of neck, shoulder, upper back, and mid back pain, 5-7/10. 5/5 bilateral upper extremity strength was appreciated. A gym membership was endorsed, apparently based on the recommendations of a medical-legal evaluator, as was three months worth of Biofreeze gel. It was stated on this particular date that the applicant was not working. The applicant was apparently doing vegetable

gardening, watering, digging, weeding, and various other tasks, it was suggested in another section of the note.

IMR ISSUES, DECISIONS AND RATIONALES

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

Biofreeze Container QTY: 3.00: Upheld

Claims Administrator guideline: Decision based on MTUS Chronic Pain Treatment Guidelines Topical analgesics Page(s): 111-113.

MAXIMUS guideline: Decision based on MTUS ACOEM Chapter 8 Neck and Upper Back Complaints Page(s): 174. Decision based on Non-MTUS Citation Biofreeze Pain-Relieving Gel, 4oz, Tube, Each - Pricefalls.com.

Decision rationale: The request for Biofreeze containers was not medically necessary, medically appropriate, or indicated here. Based on the product description, Biofreeze gel represents a means of delivering cryotherapy, ranging anywhere in price from [REDACTED] a container to [REDACTED] a container. While the MTUS Guideline in ACOEM Chapter 8, Table 8-5, page 174 does recommend at-home local applications of heat and cold as methods of symptom control for neck and upper back pain complaints, as were present here on or around the date in question, by implication and analogy, ACOEM does not support more elaborate or more expensive devices for delivering cryotherapy such as the Biofreeze gel in question. The attending provider did not state why the more costly Biofreeze gel was superior or preferable to reusable cold packs. Therefore, the request was not medically necessary.

Gym membership (in years) QTY: 1.00: Upheld

Claims Administrator guideline: The Claims Administrator did not base their decision on the MTUS. Decision based on Non-MTUS Citation ACOEM practice guidelines, 2nd edition (2004), page 114 and Official Disability Guidelines - Treatment for Workers' Compensation 2012 on the web (www.odgtreatment.com). Work Loss Data Institute (www.worklossdata.com), updated 2/14/12.

MAXIMUS guideline: Decision based on MTUS ACOEM Chapter 5 Cornerstones of Disability Prevention and Management Page(s): 83, Chronic Pain Treatment Guidelines Physical Medicine Page(s): 98.

Decision rationale: The proposed gym membership was likewise not medically necessary, medically appropriate, or indicated here. As noted in the MTUS Guideline in ACOEM Chapter 5, page 83, to achieve functional recovery, applicants must assume certain responsibilities, one of which includes adhering to and maintaining exercise regimens. Similarly, page 98 of the MTUS Chronic Pain Medical Treatment Guidelines also notes that applicants are expected to continue active therapies at home as an extension of the treatment process. Thus, both the MTUS Chronic Pain Medical Treatment Guidelines and the ACOEM Practice Guidelines seemingly espouse the position that gym memberships and the like are articles of applicant

responsibility as opposed to articles of payer responsibility. The attending provider did not, furthermore, furnish a clear or compelling applicant-specific rationale for the gym membership. The request appeared to be given largely for applicant-convenience purposes as opposed to any actual need for specialized equipment. A February 18, 2015 progress note suggested that the applicant was able to perform vegetable gardening, digging, weeding, trimming, and other fairly physically arduous chores. It did not appear, thus, that there was a need for specialized equipment or that the applicant was incapable of performing self-directed home-based physical medicine of his own accord, as suggested on page 98 of the MTUS Chronic Pain Medical Treatment Guidelines. Therefore, the request was not medically necessary.