

Case Number:	CM15-0070832		
Date Assigned:	04/21/2015	Date of Injury:	03/15/2011
Decision Date:	06/30/2015	UR Denial Date:	03/10/2015
Priority:	Standard	Application Received:	04/14/2015

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

Certification(s)/Specialty: Physical Medicine & Rehabilitation

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 46-year-old male, who sustained an industrial injury on 3/15/2011. He reported low back pain. The injured worker was diagnosed as having lumbar radiculitis, and failed back surgery syndrome. Treatment to date has included medications, pain management, x- rays, acupuncture, and lumbar surgery. The request is for acupuncture for the lumbar spine, electrodiagnostic studies of bilateral lower extremities, a bone scan of the lumbar spine, and industrial back support. The records indicate he completed at least 11 acupuncture sessions, and has reported that it helps his pain. On 2/2/2015, he is seen for increased pain. He rated his pain level as 4-5/10 on medications, 8-9/10 without medications, and his average pain as 4-5/10. The treatment plan included: continuation of Gabapentin, Norco, and Elavil, psychiatry consultation, refill Cymbalta, and urine toxicology screening.

IMR ISSUES, DECISIONS AND RATIONALES

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

Twelve acupuncture sessions, two times a week for six weeks, for the lumbar spine: Upheld

Claims Administrator guideline: Decision based on MTUS Acupuncture Treatment Guidelines.

MAXIMUS guideline: Decision based on MTUS Acupuncture Treatment Guidelines, Chronic Pain Treatment Guidelines Acupuncture Page(s): 13.

Decision rationale: The patient presents on 02/19/15 with lower back pain rated 9-10/10. The patient's date of injury is 03/15/11. Patient is status post posterior fusion L5-S1 at a date unspecified, and status post-anterior lumbar interbody fusion at L5-S1 at a date unspecified. The request is for twelve acupuncture sessions, two times a week for six weeks for the lumbar spine. The RFA is dated 11/20/14. Physical examination dated 02/19/15 reveals grade 3-4 tenderness to palpation over the lumbar paraspinal muscles, restricted range of lumbar motion, and positive straight leg raise bilaterally. The patient is currently prescribed Gabapentin, Norco, Cymbalta, and Elavil. Diagnostic imaging was not included. Per 02/19/15 progress note, patient is classified as temporarily totally disabled for an additional 4 weeks. Chronic Pain Medical Treatment Guidelines, page 13 for acupuncture states: "See Section 9792.24.1 of the California Code of Regulations, Title 8, under the Special Topics section." This section addresses the use of acupuncture for chronic pain in the workers' compensation system in California. The MTUS/Acupuncture Medical Treatment Guidelines (Effective 7/18/09) state that there should be some evidence of functional improvement within the first 3-6 treatments. The guidelines state if there is functional improvement, then the treatment can be extended. In regard to the request for 12 additional sessions of acupuncture for this patient's chronic lower back pain, the requesting provider has exceeded guideline recommendations. Per progress note dated 02/19/15, this patient has already received 11 sessions of acupuncture to date. Addressing efficacy, undated acupuncture progress note from visit 10 notes that the patient's pain, spasms, tenderness, and range of motion are "Same" following treatment, though paradoxically the note concludes, "treatment is helping." MTUS guidelines specify 3 to 6 treatments initially, with additional acupuncture contingent on improvements; in this case, the treater requests 12 additional treatments for a total of 23. Such an excessive number of sessions without documented efficacy or functional improvement cannot be substantiated. Therefore, the request is not medically necessary.

EMG/NCV of bilateral lower extremities: Upheld

Claims Administrator guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 298, 301, and 303, Acupuncture Treatment Guidelines.

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 chapter under EMGs -electromyography, Low Back chapter under Nerve conduction studies - NCS-.

Decision rationale: The patient presents on 02/19/15 with lower back pain rated 9-10/10. The patient's date of injury is 03/15/11. Patient is status post posterior fusion L5-S1 at a date unspecified, and status post-anterior lumbar interbody fusion at L5-S1 at a date unspecified. The request is for EMG/NCV of the bilateral lower extremities. The RFA is dated 11/20/14. Physical examination dated 02/19/15 reveals grade 3-4 tenderness to palpation over the lumbar paraspinal muscles, restricted range of lumbar motion, and positive straight leg raise bilaterally. The patient is currently prescribed Gabapentin, Norco, Cymbalta, and Elavil. Diagnostic imaging was not included. Per 02/19/15 progress note, patient is classified as temporarily totally disabled for an

additional 4 weeks. ODG Low Back chapter under EMGs, electromyography, ODG states, "Recommended as an option needle, not surface. EMGs may be useful to obtain unequivocal evidence of radiculopathy, after 1-month conservative therapy, but EMG's are not necessary if radiculopathy is already clinically obvious." ODG, Low Back chapter under Nerve conduction studies, NCS states, "Not recommended. There is minimal justification for performing nerve conduction studies when a patient is presumed to have symptoms on the basis of radiculopathy." ODG for Electrodiagnostic studies states, "NCS which are not recommended for low back conditions, and EMGs which are recommended as an option for low back." In regard to the EMG/NCV studies to be performed on the bilateral lower extremities, the patient does not meet guideline criteria. The medical records provided do not indicate that the patient has previously obtained electrodiagnostic studies of the lower extremities. The treating physician has documented that the patient has lower back pain, but does not indicate that this pain radiates into the lower extremities. The examination findings note a positive SLR bilaterally, but do not include any other examination findings indicative of neurological dysfunction in the lower extremities. Furthermore, ODG does not recommend the use of NCV studies on the lower extremities and supports only EMG studies. The current request, as written, is not supported by the official disability guidelines and cannot be substantiated. The request is not medically necessary.

Bone scan of lumbar spine: 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), Treatment Index, 13th Edition (web), 2015, Low Back, Bone Scan.

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 chapter, under Bone Scan.

Decision rationale: The patient presents on 02/19/15 with lower back pain rated 9-10/10. The patient's date of injury is 03/15/11. Patient is status post posterior fusion L5-S1 at a date unspecified, and status post-anterior lumbar interbody fusion at L5-S1 at a date unspecified. The request is for BONE scan of lumbar spine. The RFA is dated 11/20/14. Physical examination dated 02/19/15 reveals grade 3-4 tenderness to palpation over the lumbar paraspinal muscles, restricted range of lumbar motion, and positive straight leg raise bilaterally. The patient is currently prescribed Gabapentin, Norco, Cymbalta, and Elavil. Diagnostic imaging was not included. Per 02/19/15 progress note, patient is classified as temporarily totally disabled for an additional 4 weeks. ODG Low back chapter, under Bone Scan has the following: "Not recommended, except for bone infection, cancer, or arthritis. Note: This is different from the 1994 AHCPR Low Back Guideline, which said "Recommend if no improvement after 1 month" for Bone scan. Bone scans use intravenous administration of tracer medications to show radioactive uptake to detect metastases, infection, inflammatory arthropathies, significant fracture, or other significant bone trauma. In this case, the provider is requesting what appears to be this patient's first bone scan of the lumbar spine. This patient presents with lower back pain and history of failed lower back surgeries, however there is no documentation that the provider suspects bone infection, cancer, or arthritis of the lumbar spine. ODG does not support the use

of bone scans unless there is evidence for (or suspicion of) infection, cancer, or arthritis - without such documentation such imaging cannot be substantiated. The request is not medically necessary.

Industrial back support: Overturned

Claims Administrator guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 298; 301; 303.

MAXIMUS guideline: Decision based on MTUS ACOEM Chapter 12 Low Back Complaints Page(s): 301. Decision based on Non-MTUS Citation Official Disability Guidelines (ODG) Low Back chapter on lumbar supports.

Decision rationale: The patient presents on 02/19/15 with lower back pain rated 9-10/10. The patient's date of injury is 03/15/11. Patient is status post posterior fusion L5-S1 at a date unspecified, and status post-anterior lumbar interbody fusion at L5-S1 at a date unspecified. The request is for industrial back support. The RFA is dated 11/20/14. Physical examination dated 02/19/15 reveals grade 3-4 tenderness to palpation over the lumbar paraspinal muscles, restricted range of lumbar motion, and positive straight leg raise bilaterally. The patient is currently prescribed Gabapentin, Norco, Cymbalta, and Elavil. Diagnostic imaging was not included. Per 02/19/15 progress note, patient is classified as temporarily totally disabled for an additional 4 weeks. The ACOEM Guidelines page 301 on lumbar bracing states, "Lumbar supports have not been shown to have any lasting benefit beyond the acute phase of symptom relief." ODG Guidelines under the Low Back chapter on lumbar supports states, "Not recommended for prevention; however, recommended as an option for compression fracture and specific treatment of spondylolisthesis, documented instability, and for treatment of nonspecific low back pain, very low quality evidence, but may be a conservative option." In regard to the lumbar spine orthotic, the request is appropriate. Progress note dated 01/15/15 notes that this patient is being prescribed a new back brace because the old brace is falling apart. While ODG guidelines indicate that, the evidence supporting the use of lumbar orthotics is of low quality; this patient presents with significant surgical history and lower back instability. A lumbar support could reasonably produce functional benefits. Therefore, the request is medically necessary.