

<b>Case Number:</b>	CM15-0092623		
<b>Date Assigned:</b>	05/19/2015	<b>Date of Injury:</b>	10/20/2003
<b>Decision Date:</b>	06/19/2015	<b>UR Denial Date:</b>	04/15/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	05/13/2015

### 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, Florida, 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 injured worker is a 57-year-old male, who sustained an industrial injury on 10/20/2003. He has reported injury to the low back. The diagnoses have included low back pain; lumbar disc displacement; lumbar radiculopathy; status post lumbar surgery x 2 (left open L4-5, L5-S1 discectomy 1990) with mild residuals; status post anterior lumbar interbody fusion x 2 with paired titanium cages and bone morphogenetic protein on 10/11/2004, with bilateral lumbar radiculopathy; and degenerative transitional disc disease. Treatment to date has included medications, ice/heat, diagnostics, spinal cord stimulator, acupuncture, surgical intervention, and therapeutic exercise. Medications have included Norco, Robaxin, and Dalmane. A progress note from the treating physician, dated 03/11/2015, documented a follow-up visit with the injured worker. Currently, the injured worker complains of continued intermittent moderate low back pain; acupuncture decreased the pain by 50% for about six to seven days; and he is continuing to see the pain management specialist. Objective findings have included tenderness to palpation at the levels of L5-S1; muscle spasms; restricted range of motion due to complaints of discomfort and pain; straight leg test is positive bilaterally; and Patrick Fabere's test is positive. The treatment plan has included the request for acupuncture 1 x 4 lumbar spine; and donut for home use.

### IMR ISSUES, DECISIONS AND RATIONALES

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

## **Acupuncture 1 x 4 Lumbar Spine: Upheld**

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

**MAXIMUS guideline:** Decision based on MTUS Acupuncture Treatment Guidelines.

**Decision rationale:** This claimant was injured now 12 years ago. Acupuncture reportedly decreased the pain by 50% for 7 days; there is no mention of objective functional improvement. The MTUS sets a high bar for effectiveness of continued or ongoing medical care in 9792.24.1. "Functional improvement" means either a clinically significant improvement in activities of daily living or a reduction in work restrictions as measured during the history and physical exam, performed and documented as part of the evaluation and management visit billed under the Official Medical Fee Schedule (OMFS) pursuant to Sections 9789.10-9789.111; and a reduction in the dependency on continued medical treatment. With this proposed treatment, there is no clinically significant improvement in activities of daily living or a reduction in work restrictions as measured during the history and physical examination, or a reduction in the dependency on continued medical treatment. Moreover, the MTUS notes acupuncture treatments may be extended only if true functional improvement is documented as defined in Section 9792.20(f). This frequency and duration requested is above guides as to what may be effective, and there is no objective documentation of effective functional improvement in the claimant. The sessions were appropriately non-certified under the MTUS Acupuncture criteria. Therefore, the request is not medically necessary.

## **Donut for Home Use: 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), Knee, DME.

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

**Decision rationale:** The current California web-based MTUS collection was reviewed in addressing this request. The guidelines are silent in regards to this request. Therefore, in accordance with state regulation, other evidence-based or mainstream peer-reviewed guidelines will be examined. Per the ODG, in the Knee section, under DME, it notes that the term DME is defined as equipment which: (1) Can withstand repeated use, i.e., could normally be rented, and used by successive patients; (2) Is primarily and customarily used to serve a medical purpose; (3) Generally is not useful to a person in the absence of illness or injury; & (4) Is appropriate for use in a patient's home. (CMS, 2005) A donut may meet some criteria, but the use of this item vs a simple seat cushion already at home is not clear. In addition, it is a comfort measure, but not one of medical necessity for care and healing. The request is appropriately not medically necessary.

