

<b>Case Number:</b>	CM15-0098581		
<b>Date Assigned:</b>	05/29/2015	<b>Date of Injury:</b>	02/24/2004
<b>Decision Date:</b>	07/08/2015	<b>UR Denial Date:</b>	05/07/2015
<b>Priority:</b>	Standard	<b>Application Received:</b>	05/21/2015

### 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 45-year-old who has filed a claim for chronic neck, shoulder, and low back pain with derivative complaints of headaches reportedly associated with an industrial injury of February 24, 2004. In a Utilization Review report dated May 12, 2015, the claims administrator failed to approve requests for epidural steroid injection therapy, a three-month physiotherapy restoration program, OxyContin, and Norco. The claims administrator referenced a RFA form and associated progress note of April 24, 2015 in its determination. The applicant's attorney subsequently appealed. On April 24, 2015, the applicant reported ongoing complaints of neck pain radiating into bilateral upper extremities status post earlier failed cervical spine surgery. The applicant also reported ongoing issues with mechanical low back pain; it was stated in one section of the note. In another section of the note, it was stated that the applicant had significant radicular pain complaints. The attending provider attributed the applicant's low back pain complaints to a combination of facet arthropathy, degenerative disk disease, and reportedly electro diagnostically confirmed L5 radiculopathy. The applicant was using Norco and OxyContin, it was reported. The applicant was using Norco at a rate of six tablets a day, it was stated. The attending provider stated that the applicant was getting 40% to 50% pain relief with medications but acknowledged that the applicant had significant functional limitations. The applicant was unable to drive to and from appointments. The applicant's wife was driving him to and from all appointments. The applicant was depressed, it was reported. The applicant's medications included, OxyContin, Norco, Prilosec, Lidoderm patches, Zofran, and Ultracet, it was reported. The attending provider referenced electro diagnostic testing of May 10, 2015

demonstrating a chronic, active L4-L5 radiculopathy. While the applicant had undergone multiple cervical spine surgeries, there was no explicit mention of the applicant's having undergone earlier lumbar spine surgery. Epidural steroid injection therapy at the L5-S1 level was sought while OxyContin, Norco, Elavil, and naproxen were prescribed. The attending provider stated that the injection in question was being performed for diagnostic and/or therapeutic purposes. The applicant received trigger point injections in the clinic. It was not clearly stated whether the applicant had or had not had prior lumbar epidural steroid injections. Laboratory testing was endorsed. The applicant's work status was not detailed, although it did not appear that the applicant was working. On May 20, 2015, the attending provider acknowledged that the applicant had had a previous lumbar epidural steroid injection in May 2012. Trigger point injections were again performed on this occasion. A spine surgery referral was proposed. The applicant was asked to consider a cervical spinal cord stimulator. Prilosec, Zofran, Norco, OxyContin, and Ultracet were prescribed, continued, and/or dispensed. The attending provider stated that the applicant would likely undergo lumbar spine surgery and that the applicant had consulted a spine surgeon who recommended a two-level fusion. The attending provider stated that the applicant's medications were beneficial in terms of reducing pain scores and in ameliorating the applicant's ability to perform household chores such as assisting his wife in doing the laundry. It did not appear that the applicant was working with permanent restrictions in place, although this was not explicitly stated. Permanent work restrictions were again renewed on May 21, 2015. Once again, it was not explicitly stated whether the applicant was or was not working at this point, 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:

**Fluoroscopically guided transforaminal epidural steroid injections at L5-S1 bilaterally for the Lumbar Spine:** Upheld

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

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Epidural steroid injections (ESIs) Page(s): 46.

**Decision rationale:** No, the request for fluoroscopically guided epidural steroid injections at L5-S1 was not medically necessary, medically appropriate, or indicated here. The request in question does represent a request for repeat epidural steroid injection as the applicant had had a previous epidural steroid injection in 2012. However, page 46 of the MTUS Chronic Pain Medical Treatment Guidelines states that pursuit of repeat epidural blocks should be predicated on evidence of lasting analgesia and functional improvement with earlier blocks. Here, however, the applicant did not appear to have returned to work, despite receipt of at least one prior lumbar epidural steroid injection. Permanent work restrictions were renewed, seemingly unchanged, from visit to visit. The applicant remained dependent on a variety of opioid medications, including OxyContin and Percocet. It did not appear, in short, that the previous epidural steroid injection (s) had generated any significant benefit in terms of functional impairment parameters established in MTUS 9792.20e. It is further noted that page 46 of the MTUS Chronic Pain

Medical Treatment Guidelines also notes that one of the goals of epidural steroid injection therapy is to avoid surgery. Here, however, the attending provider's progress note of March, April, and May 2015 suggest that the applicant was considering a two-level lumbar fusion surgery. It did not appear, in short, that epidural steroid injection therapy was indicated in the clinical context present here. Therefore, the request was not medically necessary.

**Physiotherapy restoration-type program for 3 months in conjunction with Epidural Steroid Injections:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 31.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Chronic pain programs (functional restoration programs) Page(s): 32.

**Decision rationale:** Similarly, the request for "physiotherapy restoration- type program" for three months was not medically necessary. The request was ambiguous, imprecise, and opens to a variety of interpretations. The request appeared to represent a request for a functional restoration program of some kind. However, page 32 of the MTUS Chronic Pain Medical Treatment Guidelines stipulates that one of the cardinal criteria for pursuit of functional restoration program is evidence that an applicant is not a candidate for surgery or other treatments, which would clearly be warranted to improve pain and/or function. Here, the applicant was apparently deemed a candidate for a two-level lumbar fusion surgery, as suggested by a spine surgeon whom the applicant consulted. It did not appear, thus, that applicant was an appropriate candidate for the functional restoration program in question. Therefore, the request was not medically necessary.

**Oxycontin 40mg #90:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 78, 80.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines 7) When to Continue Opioids Page(s): 80.

**Decision rationale:** The request for OxyContin, a long-acting opioid, was likewise not medically necessary, medically appropriate, or indicated here. As noted on page 80 of the MTUS Chronic Pain Medical Treatment Guidelines, the cardinal criteria for continuation of opioid therapy include evidence of successful return to work, improved functioning, and/or reduced pain achieved because of the same. Here, however, the applicant did not appear to be working following imposition of permanent work restrictions, it was suggested (but not clearly stated) on progress notes of March, April, and May 2015. While the attending provider recounted some reported reduction in pain scores imputed to opioid therapy, these reports were, however, outweighed by the applicant's seeming failure to return to work and the attending provider's failure to outline meaningful or material improvements in function (if any) effected as a result of ongoing opioid usage. The attending provider's commentary to the effect that the applicant was

unable to transfer himself to and from office visits of his own accord suggests that the applicant was not, in fact, deriving appropriate functional benefits with ongoing OxyContin usage. The attending provider's commentary to the effect that the applicant was able to assist with household chores such as doing laundry did not constitute evidence of a meaningful, material, or substantive improvement in function effected as a result of ongoing OxyContin usage. Therefore, the request was not medically necessary.

**Norco 10/325mg #140:** Upheld

**Claims Administrator guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines Page(s): 78, 80.

**MAXIMUS guideline:** Decision based on MTUS Chronic Pain Treatment Guidelines 7) When to Continue Opioids Page(s): 80.

**Decision rationale:** Finally, the request for Norco, a short-acting opioid, was likewise not medically necessary, medically appropriate, or indicated here. As noted on page 80 of the MTUS Chronic Pain Medical Treatment Guidelines, the cardinal criteria for continuation of opioid therapy include evidence of successful return to work, improved functioning, and/or reduced pain achieved because of the same. Here, however, the applicant's work status was not clearly outlined in progress notes of March, April, and May 2015, referenced above, although it did not appear that the applicant was working with previously imposed permanent limitations in place. While the attending provider did recount some reported reduction in pain scores imputed to ongoing opioid consumption, these reports were, however, outweighed by the applicant's seeming failure to return to work and the attending provider's failure to outline any meaningful or material improvements in function (if any) effected as a result of ongoing Norco usage. The attending providers commentary to the effect that the applicant's ability to perform household chores, such as assisting his wife with laundry, did not constitute evidence of a meaningful, material, or substantive improvement in function effected as a result of ongoing Norco usage. Similarly, the attending provider's commentary to the effect that the applicant was unable to transport himself to and from office visits without his wife's assistance likewise suggests that the applicant was not, in fact, deriving an appropriate benefit from ongoing opioid usage. Therefore, the request for Norco was not medically necessary.