

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Neuromuscular Services
Petitioner

File No. 21-1505

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 3rd day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On September 24, 2021, Neuromuscular Services (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on July 27, 28 and 30, 2021; August 11, 2021; and September 2, 14 and 27, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 23, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 23, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 6, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 15, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy and massage treatments rendered on 18 dates of service in June, July, and August 2021.¹ The Current Procedural Terminology (CPT) codes at issue include 97010, 97014, 97035, 97110, 97012, and 97140, which are described as application of hot/cold packs, electrical stimulation, therapy modalities, therapeutic exercise, mechanical traction, and manual therapy techniques, respectively. In its *Explanation of Benefits* letters, the Respondent stated that the treatments at issue “exceeds the period of care for either utilization or relatedness.”

With its appeal request, the Petitioner submitted supporting documentation which identified the injured person’s diagnoses as post-traumatic stress disorder (PTSD), vertigo, acute neck and lower back pain with radiculitis, bilateral trapezius strain, and right knee pain with medial meniscal tear. The Petitioner stated in its appeal request that the injured person sustained injuries in a motor vehicle accident in February of 2021, which included neck and lower back pain and radicular symptoms. In addition, the Petitioner noted that further clinical work-up revealed a disc herniation at C6-7 and degenerative disease with bulging discs at level L4-5.

The Petitioner further stated in its request for an appeal:

[A]ll of this physical therapy was absolutely necessary and needed for the [injured person.] We are proceeding with the facet injections for the cervical and lumbar/cervical spine and we are also decreasing the physical therapy as she seems to be not exactly plateauing but having limited response anymore. I still feel that she does requires these continued conservative treatment[s] with physical therapy ... Based on my most recent evaluation of [her] which was August 20, 2021, I strongly recommend and it is my medical opinion that we should continue with physical and occupational therapy; we are going to try some facet injections in the spine and go further from there.

In its reply, the Respondent reaffirmed its position and referenced the American College of Occupational and Environmental Medicine (ACOEM) guidelines for low back, cervical, and thoracic spine conditions relating to physical therapy and massage treatment. The Respondent stated in its reply that “the medical records do not support this request, as the [injured person] has received greater than 10 sessions of therapy, prior to July 12, 2021.”

III. ANALYSIS

Director’s Review

Under MCL 500.3157a(5), a provider may appeal an insurer’s determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that

¹ The dates of service at issue are June 14, 16, 18, and 28, 2021; July 2, 12, 14, 16, and 23, 2021; and August 4, 6, 9, 10, 11, 13, 16, 18, and 25, 2021.

the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue based on medically accepted standards.

The IRO reviewer is a licensed physical therapist who is board-certified in orthopedic physical therapy. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on MD Guidelines and Official Disability (ODG) by MCG evidence-based treatment guidelines for its recommendation.

The IRO reviewer stated that the injured person suffered from neck pain in addition to low back pain and radicular symptoms and noted that she had a cervical disc herniation at C6-7 and bulging lumbar discs at L4-5. Specifically, the IRO reviewer stated:

Per the visit note dated 08/06/2021 the documentation indicated [the injured person] complained of stiffness to her back. Objectively there was mild spasm to the cervical spine, thoracic spine, and lumbar spine with mild tenderness to the right knee. There was decreased range of motion to the spine on physical examination. Additionally, there was decreased strength to the extremities. She participated in therapy and was recommended to continue with additional visits.

The IRO reviewer opined that the “physical therapy and massage treatments for the dates of service at issue “were not medically necessary and it is unclear if they were overutilized.” The IRO reviewer explained that the “documentation submitted does not detail treatment notes from all of the requested dates of service.” The IRO reviewer further stated:

Additionally, it is unclear if [the injured person] has participated in therapy services prior to 06/14/2021. Therefore, it does not appear that the requested treatment is appropriate given the above. It is also unclear if they are overutilized as there is no documentation detailing the prior treatment history. As such, the requested physical therapy treatments are not medically necessary.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy and massage treatments provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determinations dated July 27, 28 and 30, 2021; August 11, 2021; and September 2, 14 and 27, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford