

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

In the matter of:

Metro Management Services
Petitioner

File No. 21-1581

v

State Farm Mutual Automobile Insurance Company
Respondent

Issued and entered
this 7th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On October 6, 2021, Metro Management 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 State Farm Mutual Automobile Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations 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 August 20 and 23, 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 October 22, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on October 22, 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 November 8, 2021. The Department issued a written notice of extension to both parties on December 2, 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 9, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for pain management treatments rendered on July 16 and 27, 2021 and August 16, 2021. The Petitioner billed the treatments under procedure codes 99214, 90305, 99072, 99244, 20553, J1885, and J2001, which are described as an office or other outpatient visit, drug test(s), supplies and materials over and above those usually included with the office visit or other services rendered, office consultation, single or multiple trigger point injection, ketorolac tromethamine injection, and lidocaine HCL for intravenous infusion injection, respectively.

With its appeal request, the Petitioner submitted documentation which identified the injured person's diagnoses as: cervicgia; low back pain; pain in the right and left shoulder, and pain in the right and left knee following a July 2020 motor vehicle accident. In the treatment note dated July 16, 2021, the Petitioner noted the injured person reported neck and bilateral knee pain as a 3 out of 10 on a ten-point pain scale, 9 out of 10 pain in the lower back, and 6 out of 10 bilateral pain in the shoulder. The Petitioner indicated the injured person was ordered to receive a physical therapy evaluation and treatment 3 times per week for 4 weeks. Additionally, the treatment note indicated that the injured person's urine drug screening was sent to a laboratory and returned with a negative result.

In the treatment note dated July 27, 2021, the Petitioner provided lumbar spine myoneural trigger point injections to the injured person. The Petitioner submitted documentation indicating that the injured person received 12 total trigger point injections of .3 ccs of Lidocaine 1%, Marcaine .5%, and Toradol 45mg. The Petitioner noted that the injured person reported more than 50% relief in short term pain from the procedure.

In its *Explanation of Review* letter issued to the Petitioner, the Respondent denied payment on the basis that the treatments were "not reasonable and necessary for the injured person's care, recovery or rehabilitation as outlined in MCL 500.3107." In its reply, the Respondent stated that it was in litigation with the Petitioner regarding other dates of service not at issue in this appeal and "unable to participate in the appeal process as presented in order not to prejudice any defenses known or unknown in the current case."

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 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 and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is board certified in neurology and pain medicine. 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 Official Disability Guidelines (ODG) for its recommendation.

The IRO reviewer explained that ODG indicate trigger point injections (TPI) are considered an adjunct, not primary, treatment for neck and upper back pain. The IRO reviewer stated the following regarding ODG recommendations:

ODG notes TPI with local anesthetic may be indicated for the treatment of myofascial pain syndrome when all of the following criteria are met: documentation of circumscribed trigger point(s) with palpation producing a twitch response as well as referred pain, symptoms have persisted for greater than 3 months, medical management such as stretching exercises, physical therapy, NSAIDs, or muscle relaxants have failed to control symptoms, radiculopathy is not present by exam, imaging, or neuro-testing, no more than 3 to 4 injections per session, no repeat injections unless greater than 50 percent pain relief with reduced medication use for at least 6 weeks after injection and documented evidence of functional improvement, frequency should not be at an interval of less than 2 months, and there should be documentation of continued ongoing conservative treatment including home exercise and stretching, since use as a sole treatment is not recommended.

The IRO reviewer noted that, based on submitted documentation, the injured person reported “eight shots” prior to the treatments at issue and only experienced relief for 2 months. However, the IRO reviewer noted that documentation does not specifically address the functional benefit of any previous injections. The IRO reviewer noted that the Petitioner’s submitted treatment notes for the July 16, 2021 date of service stated that the injured person denied reports of muscle spasms. Additionally, the IRO reviewer opined:

[T]he records provided for review indicate circling in reference to tenderness over the lumbar (L) 2 to L3, L3 to L4, and L4 to L5 area with the left positive straight leg raise, positive Valsalva, and positive slump test, but do not circle any active trigger points associated with jump reflex per the form.

Further, the IRO reviewer explained that TPIs are supported by the ODG with presence of demonstrated trigger points on physical examination, with repeat injections supported with documented functional benefit. The IRO reviewer opined the following regarding the submitted documentation:

[T]he medical records provided for review do not document specific discrete trigger points being present in reference to the noted dates and do not indicate specific

quantitative outcome in regard to any degree of benefit in reference to the noted injections. [I]njections were performed on an interval less than 2 months.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the pain management treatments provided to the injured person on July 16 and 27, 2021 and August 16, 2021 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 August 20 and 23, 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*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford