

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

In the matter of:

**Kelly Chiropractic**  
**Petitioner**

v

**File No. 21-1588**

**Auto Club Group Insurance Company**  
**Respondent**

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**Issued and entered**  
**this 13<sup>th</sup> day of January 2022**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On October 6, 2021, Kelly Chiropractic (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 Auto Club Group 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 Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on September 15, 2021. 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 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 29, 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 29, 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 20, 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 January 12, 2022.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for chiropractic treatment provided to an individual injured in an automobile accident in December 2019. The Petitioner's treatment was rendered on July 30, August 2, and August 4, 2021. The Petitioner charged \$255.00 for this treatment. With its appeal request, the Petitioner submitted records of the treatment provided.

The Petitioner wrote that the treatment schedule was based on "the neck pain index, Oswestry index, range of motion, palpation, x-ray, grip strength, etc." The Petitioner also stated that the injured person's treatment had been delayed because of COVID-19 concerns and because she needed to care for her husband. The Petitioner concluded:

Due to her delay in treatment, degenerative condition, age, work status, etc., her schedule is needed to continue for adjustment and her physical therapy as well. The examination on 08/09/2021 shows there have been positive changes. The determination to end care is in error and needs to be reconsidered. Findings are constant with care schedule of two visits per week as recommended.

In its reply, the Respondent stated that the injured person "did not have a significant change in physical exam findings from the start of care to the last visit" and the Petitioner did not submit an updated chiropractic therapy evaluation and no significant functional benefit had been documented. The Respondent stated that ACOEM guidelines recommend up to 12 visits if improvement is shown and that the Petitioner's request for payment for additional chiropractic therapy beyond 12 visits exceeds ACOEM treatment recommendations.

## 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 overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a board-certified chiropractor. In its report, the IRO reviewer concluded, based on the submitted documentation, that the treatment in question was not medically necessary. 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 stated that the most appropriate practice guidelines for the chiropractic treatment at issue are American College of Occupational and Environmental Medicine (ACOEM) Guidelines, Official Disability Guidelines (ODG), The American Chiropractic Association Chiropractic Guidelines and Practice Parameters (CCGPP) evidence-based guidelines, generally accepted standards of medical practice, and chiropractic practice guidelines for standards of care. The IRO reviewer opined that:

When a patient's measurable outcome no longer shows improvement, and the patient's clinical status has reached maximum improvement, additional treatment is not medically necessary. Given the information that the patient had received 12 treatments prior to the 3 [dates of service] under review, the patient's measurable outcome did not show improvement.

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The patient was nearly 1.5 years post [accident] when beginning treatment with this provider. The treatment does not meet ACOEM guidelines of "manipulation or mobilization of the lumbar spine is recommended for short-term relief of chronic pain or is it component of an active treatment program focusing on active exercises for acute exacerbations.... Substantial progression (e.g., return to work or activities, increasing ability to tolerate exercise, reduced medication use) should be documented at each follow-up visit", as the patient reportedly received 12 prior treatments, without documented improvement. The patient has completed an adequate amount of chiropractic sessions over the 8 weeks of treatment, which exceed the standards of care for this patient's condition. It is expected that the patient would be very well-versed in a home exercise program at this time to address any remaining deficits and flare-ups. The documentation does not outline significant objective functional improvement from prior chiropractic services to support the requested appeal. There is no documentation of an attempt and failure of an independent home exercise program alone to address remaining deficits to require continued skilled chiropractic services. As the patient did not provide evidence of significant sustained functional gains from the recent course of chiropractic treatment, or evidence to support exceptional circumstances to require continued care over a home exercise program, the medical necessity of chiropractic treatment, from 7/30/21 to 8/4/21, is not established.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the treatment provided to the injured person on July 30, August 2, and August 4, 2021, was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

#### **IV. ORDER**

The Director upholds the Respondent's determination dated September 15, 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:

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X *Sarah Wohlford*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford