STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Marshall Chiropractic Life Center PC
Petitioner **File No. 21-1613**

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 4th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On October 12, 2021, Marshall Chiropractic Life Center PC (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, 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 July 19, 2021 and August 3, 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 16, 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 16, 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 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 15, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for chiropractic treatments rendered on July 7 and 12, 2021. The Petitioner billed the treatments under procedure codes 98941 and 97012, which are described as spinal chiropractic manipulative treatment (CMT) and mechanical traction, respectively. In its *Explanation of Benefits* letter issued to the Petitioner, the Respondent denied payment on the basis that the treatment "exceeds the period of care for either utilization or relatedness."

With its appeal request, the Petitioner submitted documentation which identified the injured person's diagnoses as: segmental and somatic dysfunction of the lumbar, sacral, and thoracic regions and sprain of ligaments of the lumbar and thoracic spine and sacroiliac joint following a September 2016 motor vehicle accident. The Petitioner also submitted treatment notes for the dates of service at issue indicated the injured person's chief complaint as left thigh pain with positive findings of myospasms, tenderness to palpation, and edema of the lumbar area. Further, the treatment notes stated the injured person's plan of care included CMT and manual traction to "influence joint and neurophysiological function" and "allow for separation between joint surface."

The Petitioner's request for an appeal stated:

> [The injured person] will be reassessed every visit. His overall prognosis is hopeful to poor considering the fact that [the injured person] will never reach maximum medical improvement … He has exhausted all other options at this time, and therefore it is strongly recommended [the injured person] continue treatment for his condition.

In its reply, the Respondent reaffirmed its initial determination that the chiropractic treatments were overutilized and referenced American College of Occupational and Environmental Medicine (ACOEM) practice guidelines. Specifically, the Respondent stated:

> The medical records do not support this request, as the claimant has received greater than 20 sessions of chiropractic therapy sessions, since 3/26/2021… per the documentation. The chiropractic therapy sessions exceed the ACOEM quantity recommendations, as therapy was given for greater than 20 sessions, with ample opportunity provided to initiate and reinforce a home, exercise, activity, program and no substantial therapeutic effect as per objective exam visit evaluation findings, noting, "unchanged" and "worsened". Based on the records reviewed, and in conjunction with the ACOEM guidelines, denial of the, 7/7/2021, and 7/12/2021, chiropractic therapy treatment services, are recommended.

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 chiropractic 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 American Chiropractic Association Council on Chiropractic Guidelines and Practice Parameters (CCGPP) evidence-based guidelines, American College of Occupational and Environmental Medicine (ACOEM) Guidelines, and Official Disability Guidelines (ODG) for its recommendation.

The IRO reviewer noted that ACOEM practice guidelines for severe spine conditions recommend up to 12 chiropractic visits over 6 to 8 weeks, with substantial progression documented at each follow-up visit. Additionally, the IRO reviewer noted that ODG guidelines for pain recommend 9-12 chiropractic visits, and CCGPP support a typical initial therapeutic trial of 6-12 visits over 2-4 weeks.

The IRO reviewer explained that no comprehensive history, physical examinations, or an appropriate initial assessment of the injured person were submitted for review. Based on submitted documentation, the injured person received at least 20 chiropractic treatments prior to the dates of service at issue. The IRO reviewer noted that the Petitioner's submitted chart note begins on July 7, 2021, which is "nearly 5 years post accident." Further, the IRO reviewer noted the lack of documentation submitted by the Petitioner, and opined:

> It is unclear when the patient was initially treated for this condition or what type of prior treatment was received, however, treatment began on 3/26/21 with [the Petitioner.]
>
> Appropriate practice guidelines and acceptable standards of medical care include properly documenting all aspects of patient contact, care, and treatment. This would entail submitting all patient records for review, to include initial patient history and examination, all treatment chart notes, re-evaluations showing progression or regression, testing, or other specialty treatments. Appropriate practice guidelines and acceptable standards of medical care were not followed as minimal and incomplete records for this patient were submitted for review.

The IRO reviewer further opined that medical necessity was not established for the dates of service at issue. Specifically, the IRO reviewer opined:

> The [Petitioner] did not establish the medical necessity of treatment in the submitted documents, as it was not documented that the [injured person] demonstrated progressive improvement from the [dates of service] under review, or from the 20 prior visits. The [injured person] reported on the 2 chart notes that on 7/7/21, the objective findings had not changed since the last visit and on 7/12/21, that the objective findings had worsened since the visit on 7/7/21. When an [injured person's] measurable outcome no longer shows improvement, and [injured person's] clinical status has reached maximum improvement, additional treatment is not medically necessary. Given the information that [the injured person] had received 20 treatments prior to the 2 [dates of service] under review, the [injured person's] measurable outcome did not appear to show improvement. The [Petitioner] noted that the [injured person] was to be evaluated on each treatment to determine the necessity of continued treatment. Based on the submitted chart notes dated 7/7/21 when the [injured person] reported no change since the prior treatment, and on 7/12/21, that the findings had worsened since the prior treatment, the documents did not support the medical necessity of this continued care.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the chiropractic treatments provided to the injured person on July 7 and 12, 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 July 19, 2021 and August 3, 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