

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

**In the matter of:**

**Michelle Cuffar**  
**Petitioner**

**File No. 21-1075**

**v**

**Citizens Insurance Company of the Midwest**  
**Respondent**

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**Issued and entered**  
**this 3rd day of August 2021**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 18, 2021, Michelle Cuffar (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 appeal concerns a determination from Citizens Insurance Company of the Midwest (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatments 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 April 14, 2021. The Petitioner now seeks payment in the full amount billed for the dates of service at issue.

The Department accepted the request for appeal on June 18, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on June 18, 2021, and the Respondent received a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on July 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 July 20, 2021.

## II. FACTUAL BACKGROUND

The Petitioner appeals the denial of payment for massage therapy treatments rendered from March 14 through 18, 2021, under procedure codes 97124 and 97139, for a therapeutic massage procedure and an unlisted therapeutic procedure, respectively. On April 14, 2021, the Respondent issued a determination letter denying payment for the dates of service at issue on the basis that the treatments were not medically necessary based on “generally accepted medical standards and standard professional treatment protocols.”

In its appeal request, the Petitioner argues that continued massage therapy treatments have significantly reduced the injured person’s pain, swelling/inflammation, as well as increased the injured person’s range of motion mobility and changed their gait pattern. The Petitioner provided further explanation in its appeal stating:

[The injured person] continues to receive a great deal of relief from the massage services that are provided by [the Petitioner] ... [the injured person] usually has treatment spaced out twice a week to grant [them] the best results of treatment. [The injured person] went without the benefit of massage treatments between the dates of 3/5/21 – 3/13/21. During that time, using the 10 point pain tolerance scale, [the injured person] expressed that [their] pain level went up to a 8/10 without treatment whereas, post treatment and the subsequent days following treatment [their] pain is exceedingly reduced to a manageable pain level of 4/10 using that same 10 point scale.

In its initial determination, the Respondent stated its rationale for denial was:

Billing is for massage therapy and cold-laser therapy at client’s home. Clinical notes fail to mention a presumptive diagnosis for treatment.

In its reply, the Respondent reaffirms its position that the massage therapy treatments were not medically necessary and were denied “per review of medical documentation.”

## III. ANALYSIS

### Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that a 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 issues of medical necessity of treatment.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that the massage therapy 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).

The IRO reviewer is a practicing physician with more than 10 years of experience and is familiar with the medical management of patients with the injured person's condition. 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 peer-reviewed journal articles supporting current evidence-based practice guidelines, including Official Disability Guidelines (ODG).

In support of its recommendation, the IRO reviewer explained that the injured person has a diagnosis consistent with "a nondisplaced intraarticular fracture of the left calcaneus after a crushing injury to the left foot which required a fusion of left ankle on 1/13/18" with a history of a motor vehicle accident on March 12, 2016. The IRO reviewer stated that the documentation presented evidence consistent with chronic pain from the injury.

However, the IRO reviewer noted the following:

[O]fficial Disability Guidelines (ODG) suggest that massage therapy is not recommended due to the fact that there is little information available from trials to support the use of many physical medicine interventions for treating disorders of the ankle and foot.

It is not advisable to use these modalities beyond 2 [or] 3 weeks if signs of objective progress towards functional restoration are not demonstrated.

In addition, the IRO reviewer opined that:

[M]anual mobilization of the ankle is of limited value and is not recommended ... and massage therapy may have positive effects on many different groups with varying conditions ... the studies are limited and are largely comprised of comparison groups of small numbers and limited by the exclusive use of self-reported measures. The [IRO reviewer] explained that neither the accepted practice guidelines or peer reviewed medical literature provide clear support for the continued massage therapy at issue in this appeal.


Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the massage therapy 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 determination dated April 14, 2021.

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:

 Recoverable Signature

X *Sarah Wohlford*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford