

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

In the matter of:

ReBalance Center, LLC
Petitioner

File No. 21-1117

v

Auto-Owners Insurance Company
Respondent

Issued and entered
this 22nd day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 12, 2021, ReBalance Center, LLC (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-Owners 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 Respondent issued the Petitioner written notices of the Respondent's determination under R 500.64(1) on June 21 and 28, 2021 and July 14 and 15, 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 August 6, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on August 6, 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 August 27, 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 September 7, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for 15 massage therapy treatments rendered on April 16, 19, 23, and 26, 2021; May 14, 17, 21 and 24, 2021; and June 2, 4, 7, 11, 14, 18, and 21, 2021. The Current Procedural Terminology (CPT) code at issue is 97124 for massage.

With its appeal request, the Petitioner provided supporting documentation which indicated that the injured person was receiving regular massage therapy treatments from the Petitioner in relation to multiple injuries sustained in a 1981 motor vehicle accident. The supporting documentation included a prescription from a referring physician from January 2021 for massage therapy for 2 days per week for a period of 6 months. The injured person's diagnoses indicated on the prescription were TBI, spasticity, right shoulder pain, leg length discrepancy and left ankle foot drop. In addition, the Petitioner's supporting statement noted these diagnoses: concussion with loss of consciousness (LOC), pain in the ankle, knee, and low back, and cervicgia.

The Petitioner argued in its statement for its appeal that the Official Disability Guidelines (ODG) which the Respondent relied upon for its determinations "cannot be used as the only measure to reduce medical costs," and that the prescription from the treating physician must be considered because the injured person's injuries "fall outside of the normal guidelines." The Petitioner noted that the injured person's referring physician is "resolute with her prescription of massage therapy." The Petitioner submitted records from the referring physician which stated that the injured person receives massage therapy for shoulder and back pain as well as lower extremity spasticity related to his TBI. The referring physician's statement noted that massage therapy will "prevent further reduction in range of motion (ROM), gait abnormality, pain issues, and overall further problems which [the injured person] cannot afford to endure."

The Petitioner's request for an appeal stated:

[The injured person] benefits from pain control and improved movement/ gait/function with continued massage therapy. [The injured person's] tone is also a concern as it creates gait abnormality and tension that require an AFO (ankle-foot orthosis), Achilles surgeries, and fall risks...His injury and related TBI have left him with a lifetime of disability...Comprehensive medical personal injury protection is what was paid for and expected at the time of his accident, and this is what he should have...Though ODG suggests foam rollers for hip pain, [the injured person] is not able to perform self care in a safe manner due to his TBI.

In its reply, the Respondent reaffirmed its position that the massage therapy treatments at issue were overutilized in frequency of duration and not medically necessary. The Respondent noted that the Petitioner has provided massage therapy services to the injured person since 2004 and that the injured person's recent round of therapy, prescribed for 1 to 2 times per week since August 24, 2020, has not provided him with significant relief. The Respondent further stated that it continues to pay up to 6 hours of

attendant care daily for the injured person and “there’s no reason, documented or otherwise, explaining why [his] care providers are unable to assist him with a home exercise/therapy program and self care.”

The Respondent explained in its response that several qualified physicians reviewed the at-issue treatments based on ODG by Milliman Care Guidelines (MCG), clinical studies, and Cochrane systematic reviews. The Respondent noted that its physicians found that “there should be demonstrated evidence of functional improvement to justify additional visits” and that the injured person “should be transitioned to a home exercise program.” Further, the Respondent stated that continued treatment “would far exceed the guidelines.” The Respondent stated that “the [Petitioner] wholly failed to indicate or otherwise explain whether [the injured person] was making objective improvements.”

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 a practicing physician who is board-certified in physical medicine and rehabilitation and neuromuscular medicine. The IRO reviewer is familiar with the medical management of patients with the injured person’s condition. 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 ODG guidelines, Cochrane Database of Systematic Reviews, and the American College of Occupational and Environmental Medicine (ACOEM) guidelines.

The IRO reviewer opined that, in relation to the injured person’s massage treatment for chronic pain and spasticity, “there is no quality evidence of the efficacy of massage for treatment of chronic persistent pain” and further noted that the Cochrane Database of Systematic Reviews provides “very little confidence that massage is an effective treatment for low back pain” for the long-term. The IRO reviewer explained that the ODG guidelines indicate that massage is a passive intervention that is considered an “adjunct to other recommended treatment.”

Specifically, the IRO reviewer opined:

Treatment beyond two months should be documented with objective improvement in function...Massage is recommended with low confidence for select use in subacute or chronic low back pain as an adjunct to more efficacious treatments consisting primarily of a graded aerobic and strengthening exercise program...Objective improvements should be shown approximately halfway through the regimen to continue a treatment course.

The IRO opined that the treatments provided on the dates of service at issue were overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i). Specifically, the IRO reviewer stated that the injured person had “extensive prior massage over 2 months for chronic pain complaints without significant objective measurable functional improvement and no objective evidence of improvement of spasticity attributable to this massage.”


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 April 16, 19, 23, and 26, 2021; May 14, 17, 21 and 24, 2021; and June 2, 4, 7, 11, 14, 18, and 21, 2021 were not medically necessary and were overutilized in frequency and duration in accordance with medically accepted standards, as defined by R 500.61(i).

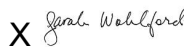
IV. ORDER

The Director upholds the Respondent’s determinations dated June 21 and 28, 2021, and July 14 and 15, 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



Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford