

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

In the matter of:

David McFadden, DC
Petitioner

File No. 21-1120

v

Home-Owners Insurance Company
Respondent

Issued and entered
this 2nd day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 14, 2021, David McFadden, DC (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 Home-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 seven written notices of the Respondent's determination under R 500.64(1) on June 10, 23, 24, and 30, 2021 and on July 6, 8, and 12, 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 July 19, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on July 19, 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 5, 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 August 17, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for 9 chiropractic treatments rendered on May 12, 17, 19, and 24, 2021, and June 6, 9, 14, 16, and 25, 2021. The Current Procedural Terminology (CPT) codes at issue are 98942 and 98943, both describing chiropractic manipulation of the spine.

With its appeal request, the Petitioner submitted medical records for the dates of service at issue indicating the injured person's diagnoses include complex subluxations of the cervical, thoracic, and sacral spine and of the sacral and pelvic regions, and right shoulder pain. The Petitioner's supporting documentation also included magnetic resonance imaging (MRI) reports of the spine and brain from July 2020 and March 2021.

The Petitioner submitted a May 20, 2020 evaluation which stated that the injured person's treatment plan was to "stabilize his musculoskeletal conditions and return his spinal column and adjacent joints to pre-injury status." The Petitioner's report indicated the injured person's care plan fell under Grade III of the Croft injury guidelines. The Petitioner stated that the treatment was medically necessary in accordance with the Croft guidelines and medical literature.

The Petitioner further stated in its appeal request:

[The injured person] continues to suffer daily and if post-surgery [sic] is needed for cervical damage which he is under additional medical care, there will be the necessity for post chiropractic care. He has with evidence permanent 25% total body impairment due to this traumatic collision. Reimbursement for treatment rendered on all dates are required as I do find treatment medically reasonable or necessary. The care is showing significant therapeutic improvement over a clearly defined period. The length of treatment has not been resolved and as short-termed. Subsequent dates of service would also be supported.

In the Respondent's reply, it reaffirmed its denial of the chiropractic treatments rendered on the dates of service at issue as not medically necessary in accordance with medically accepted standards. Specifically, the Respondent stated:

The treatment provided does not meet Official Disability Guidelines (ODG) as the number of sessions has exceeded the number of recommended sessions within ODG guidelines without discernible change in documentation, symptoms, or outcomes from visit to visit. [The Respondent] reviewed all documents provided with the appeal and no additional documentation or comment was provided as to why this specific treatment continues to be effective.

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 is a matter of medical necessity 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 for the chiropractic treatments provided 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 licensed chiropractor with an active practice. 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 the Milliman Care Guidelines and medical literature relating to clinical practice guidelines for chiropractic care.

The IRO reviewer opined that the injured person's "symptoms treated beginning on May 12, 2021 were likely related to chronic underlying and naturally occurring degenerative conditions as shown on imaging." The IRO reviewer explained that spinal strain injuries as from the May 2020 motor vehicle collision "are expected to resolve without treatment between 4 and 8 weeks" and noted that the treatment received from May 12 to June 25, 2021, occurred more than one year following the initial injury.

The IRO reviewer explained:

The Milliman Care Guidelines indicate that "spinal manipulation may be necessary for back pain when there is the absence of signs and symptoms that may be associated with a serous neurologic condition and when the clinical situation is appropriate for spinal manipulation therapy as indicated by acute or subacute low back pain lasting 12 weeks or less or chronic low back pain lasting more than 12 weeks with a recent worsening of symptoms....It is also appropriate for neck pain when...there is the absence of signs and symptoms of cord compression or serious neurologic pathology.

Additionally, there should be no evidence of an acute fracture, dislocation or ligament rupture, acute infection...Additionally, spinal manipulation therapy is a component of [a] comprehensive multimodal treatment plan...Additionally, there should be documentation that the symptoms significantly impact the ability of the [injured person] to perform job activities or activities of daily living.

Based on the submitted documentation, the IRO reviewer opined that there was no indication of an acute exacerbation of the injured person's condition to support the rendered treatment. The IRO reviewer explained that the injured person was treated for ongoing complaints of back pain and decreased range of motion throughout the neck, mid, and low back with severe tenderness and muscle spasm.

The IRO reviewer further stated that the cervical spine MRI from March 12, 2021 , revealed "cervical spondylosis with advanced arthropathy resulting in moderate to severe foraminal stenosis and impingement of the left C4 nerve root and C6 nerve roots greater on the left." The IRO reviewer also noted that a lumbar MRI of the same date revealed "multilevel spondylitic changes greatest at L4-5 and L5-S1."

Based on the submitted medical documentation and Milliman Care Guidelines, the IRO reviewer opined:

Given the expected date of recovery for injuries sustained during the 05/17/2020 collision was 07/16/2020, all treatment received after 07/16/2020 is considered overutilized, unnecessary, and excessive. Chiropractic treatments provided to the injured person on the above-referenced dates of service at issue were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i).

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the treatments provided to the injured person on May 12, 17, 19, and 24, 2021 and on June 6, 9, 14, 16, and 25, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

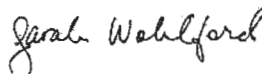
IV. ORDER

The Director upholds the Respondent's determinations dated June 10, 23, 24, and 30 2021 and July 6, 8, and 12, 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
Special Deputy Director
Signed by: Sarah Wohlford